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PRICE

SEPTEMBER 28, 1883.

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THE LIFE AND TRIAL

OF FRANK JAMES



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THE LIFE AND TRIAL OF FRANK JAMES.

THE trial of Frank James the noted Missouri outlaw, was begun at Gallatin, Missouri, on the 24th day of July, 1883. The specific charge against Frank James was the killing of Frank McMillan at the Winston train-robbery. Frank James and his brother, Jesse, had been notorious outlaws, defying all law and authority ever since the war. Jesse James was killed by one of the band, Bob Ford, on the third day of April, 1882, and Frank, tired of being hunted by detectives, surrendered to Thomas T. Crittenden, Governor of Missouri. The trial of Frank James, which we here give in full, will show to the reader how terrible, how daring and how powerful this band of outlaws had become, and how they were shielded and protected by some who were called among the best citizens of the country. This trial, though only the evidence from a court of justice, will be more entertaining to the reader than the wildest fiction. After some trouble in empaneling a jury, statements were made and the trial begun.

The first witness for the State was John L. Penn, who testified: I reside at Colfax, Io. Was on the Rock Island train at Winston. R. W. Penn, D. Doran and Frank McMillan and myself, of the stonemasons' crew, got on at Winston. Old man McMillan got on, too. It was near 9 p. m. After we got on the train three men entered the front end of the smoker. We had all come in at the front end of the car. Westfall was just putting checks in our hats when the three men entered the door. We were all standing together till we got our checks. The three men, with revolvers in each hand, rushed into the crowd, saying something we could not understand to the conductor. The conductor turned, when a shot was fired. The conductor wheeled and started for the rear of the car. The three fellows followed, shooting as they went. Westfall opened the door and fell off the train. The three men went on the platform outside the door and then turned and went back to the front end of the car. As they went out at the front door Frank McMillan and I went out at the rear door. As we did so two shots were fired and we sat down. I rose for a moment, and a shot came and cut the glass in the rear door of the car, which cut my hands and face. I saw a man standing on the front end of the smoker. I told Frank to sit down. We sat there about a minute. The man was at the front end watching those inside, and with one revolver was shooting through the car. I think three or four shots were fired while we were sitting down.

The man shooting aimed the shots right through the car. A man in the car cried out. Frank McMillan said it was his father and jumped up. As he did so a ball struck him and he fell. I could not hold him. The train was moving slowly at this time, and was already in motion when the shooting commenced. It ran pretty fast at first, but commenced slackening about twenty rods from the switch, which is thirty yards from the depot. At the bridge, a mile from the depot, they came to a standstill, and a man called out to move on further. The train started up and moved on for half a mile further and came to a full stop. The three men jumped off the car and started back past me and disappeared in the hollow. During the firing in the car the passengers all got down under the seats. The one man shooting was shooting right

through the front door of the car. This door was closed after him. Its glass was all broken out, and so was the glass in the rear door, which was also shut. There was a shot fired when I looked up and another fired when Frank McMillan looked up. I couldn't tell anything about the second car. After McMillan was shot the other McMillan and myself then started back to hunt for Frank McMillan and Westfall. McMillan was dead. Westfall was found farther up. He was dead too.

Cross examined: The three men had on dark linen dusters, collars turned up and white handkerchiefs tied round their necks. They were masked. Witness did not pretend to identify any of the parties boarding the train.

Addis E. Wolcott testified: I had charge of the engine at Winston. We left on time—9:30 p. m. It was dark. I started and went fifty feet, when the bell rang to stop. I set the air-brakes and stopped. After stopping a voice called out "All right; go ahead." I gave her steam, and somebody called again to "Go ahead, you — — —!" After that word I looked around, and two parties jumped off the coal into the cab, with two drawn revolvers, and told me to go ahead. We were 2,000 feet when the air-brakes were set from the inside of the train. That excited the two parties, and they told me to go ahead or they would shoot me. I explained matters to them and started the train. He said, "Keep her going," and to stop at the little hollow near the second tank. He said they wouldn't hurt me if I did as I was told. Before we got to the hollow I went out on the pilot and got on again on the third car. I saw but four people there. One was the baggage-man and the express-messenger, also two ladies. I asked where the other men were, and the messenger said they had not seen them since the last stop. The baggage-man and I went to the baggage-car, and after that we proceeded with the train. My fireman was Thomas Sugg, and the conductor was William Westfall. The two men on the cab were common-sized men. It was dark and I could not describe them. I never saw the conductor after we left Cameron. I heard no firing only on the front end of the baggage-car. I know that some five or six shots were fired. The last stop was made some two miles from the station.

Cross-examined: I believe the shots fired as I left the engine were fired at me. One of the men followed me out as far as the sand dome of the engine. The two men that were on the engine were not in a position to know or see what was going on during the firing in the coaches behind.

The next witness, Frank Stamper, was baggageman on the Rock Island train. The car was used for baggage and express. This expressman was named Charles M. Murray. The train stopped 200 or 300 yards from the depot, and as I opened the door two men followed me with revolvers in hand. One of them started to pull me out, and I jumped out. One fired into the baggage-car, and the other kept guard over me. After the train started up again I got on the third car and went back and told the passengers that it was a robbery.

Charles M. Murray, of Davenport, Io., testified that he was messenger on the train for the United States Express Company. He told the

same story of the baggageman being pulled out of the car. He heard some firing, and dropped behind some sample trunks in the car. After the second stop a man came in, who asked where the safe was and demanded the key, which witness gave him. The intruder then asked witness to open the safe, which he did, and the stranger took the money out or received the same from witness. The robber asked if that was all. He said they had killed the conductor and were going to kill me and the engineer, and ordered me to get down on my knees. This I did not do, when he struck me over the head and I was unconscious till the baggageman came in. I do not know how much money or treasure was taken. Here witness described the packages, but could not give their number or value. He saw three robbers all told, two of whom came in the baggage-car.

At this stage a recess was taken until 1:30.

WITNESS FROM TENNESSEE.

The first witness called after recess was W. L. Earthman, who testified: I live in Davison County, Tennessee. I am Back-tax Collector, farmer and Justice of the Peace. I live seven miles north of Nashville. I know the defendant. I saw him in 1879 in the spring. I got intimately acquainted with him as Woodson. I think the initials were "B. G.," but won't be positive. Part of the time he lived between Hide's Ferry Pike and Buena Vista Pike, on Felix Smith's farm. Can't say where he went after that. I saw him about town at Nashville. After that I don't recollect seeing him until the fall of 1880. After that I don't know where he lived. In the fall of 1880 I knew Jesse James at the same place that I knew Frank James. He was on the Smith farm. He rode Frank James' horse at the same race that I entered my horse at. I was not so well acquainted with Jesse James as with Frank. I don't recollect seeing Jesse later than the fall of 1879. I saw Jesse and Frank together at the Fair and in town. I did not then know who they really were. I was present at the June term. I saw Frank James then passing through the court-yard. He asked me where I came from; if I came up here to hang him. He recognized me. I knew a man named Tom Hill.

James Moffat testified: I have lived at Nashville ever since the war; am depot-master of the Louisville and Nashville Railroad; I knew B. J. Woodson at Nashville during the year 1880; I saw him frequently during that summer and fall; I remember Bill Ryan's arrest; don't think I ever saw Woodson there after that, but saw him just before; I knew J. B. Howard; he lived a square and a half from me; he had a wife and one child; I lived on Fartherland street, in Edgefield, or East Nashville, and he lived on Watson street; I think Howard was buying grain for Rhea & Sons; never saw Howard and Woodson together but once; it was a few days after March 30, 1881, that I saw Woodson and a Mr. Fisher, on Cedar street, talking; never saw Howard there after the arrest of Bill Ryan.

Cross-examined: Had only a pool-room acquaintance with Woodson, covering the summer and fall of 1880.

Re-cross-examination: The man on trial before me is the B. J. Woodson that I knew.

John Trimble, Jr., testified: I live at Nashville, Tenn.; I have been in the real estate and fire insurance business for ten years past; I rented the house 814 Fartherland street, in Edgefield, in the first part of 1881, about February 5, to a man named J. B. Woodson; I have not recognized the man since I have been here; he paid \$8 per month in advance; in March he paid \$8, and our books show no receipt of rent since; we sold the house about the 21st or 22d of March to J. B. May; we never received any notice that Woodson was going to quit the house.

Jas. B. May testified: I am a pressman, and live in Nashville, Tenn.; I bought a house from Mr. Trimble March 22, 1881; it is located on Fartherland street, and is No. 814; it stands by itself, has three rooms on one floor, with a side porch; I looked at the house before I rented it; saw a lady but no gentleman; this was a week before the 22d; didn't move in at once, because I wasn't ready; did not move into it till April, and then there was no one in it; never received any notice that the parties were going to leave; I went over to see if they wished to continue renting it, and found they had gone.

Mrs. Sarah E. Hite testified: I live near Hendersonville, Tenn., with my father, Silas Norris, thirteen miles from Nashville. Have lived with my husband in Kentucky from 1874 until May last. I lived near Adairsville, Ky., which is about fifty miles north from Nashville. My husband had children when I married him. I know Wood Hite. He lived with us part of the time. There were seven children—four boys, named

John, George, Wood and Clarence. We lived some two miles from town. Wood Hite was 33 years old. He is dead now. He died near Richmond, Mo., so I was told. I think he was buried there. Wood Hite was about 5 feet 8 inches high, had dark hair and light blue eyes. He had a light mustache, Roman nose, narrow shoulders, a little stooped. He was inclined to be quick in his actions. I last saw him in November, 1881. I had seen him before that in September. He said he was going West. I have seen the defendant. The first time I saw him was on March 20, 1881; he came to my husband's house on the morning of that day. Dick Liddell came with him and Jesse James came after him. Frank was riding. Jesse and Dick were walking. They did not tell me where they came from. They were armed. Jesse had two pistols and a rifle, Frank had two pistols, and Dick had two pistols and a gun. They stayed at our house a day or two. Clarence and Wood and George Hite were there, too. I saw them after that on the 26th of April. That day Dick, Jesse, Frank and Wood came back. They were still armed. Some men pursuing them came near the house. Jesse and Frank were excited at this, and commenced preparing themselves. Dick got at the front door, Jesse at the window, and Frank was in the parlor. The men rode on by. Frank James came that time on the 26th of April and left on the 27th. I don't know where they went. Clarence Hite was 21 years old, tall and slender, blue eyes, light hair, large mouth, and one or two teeth out. He is dead. He died in Adairsville the 10th of last March. Clarence was then living in Adairsville, but he would come out when Jesse and Frank and Dick were there. He left home in May, 1881. He was in Missouri in the summer of 1881. Wood Hite left home May 27, 1881. Me and Clarence did not leave together, but left a few days apart. Next saw Clarence in September; stayed there till November, and I never saw him till he came home to die. Mr. Hite was related to Jesse James. His first wife was Frank James' aunt.

This witness was not cross-examined.

Silas Norris testified: I live at Mechanicsville, Sumner County, Tenn. Sumner County adjoins Davidson County on the east. In the summer of 1881 I was living in Logan County, Ky. Adairsville is in that county. I was living within a mile and a half of it at the place of Geo. E. Hill, my son-in-law. Our two families had been together three or four years. I knew Jesse James. I first got acquainted with him in March, 1881, at Mrs. Hite's. I know Frank James. He was introduced to me by Jesse as his brother. I think Mr. Liddell was there also. Don't know where they came from. I didn't see any arms visible, but I saw some arms afterward. They stayed a short time and left. They came back, stayed a day or two, and went off for perhaps a week. Don't know where they went. I do not know where Samuels Station, Ky., is. When they came back the last time there were Jesse and Frank James and Dick Liddell in the party. Wood and Clarence Hite were away a portion of the summer.

Cross-examined: Old man Hite is probably sixty-five or sixty-six years old. He is still living.

SECOND DAY'S TRIAL.

After a long discussion among the attorneys in regard to the admissibility of Dick Liddell's testimony, he was permitted by the Court to take the stand, and testified as follows:

I am 31 years old. Was born and raised in Jackson County. I know Frank and Jesse James. First got acquainted with them in 1870, at Robert Hudspeth's, in Jackson County, eight miles from Independence, in Sinabar Township. The Hudspeths are farmers. I was working for them, first for Robert Hudspeth. I saw the James brothers there a dozen times or more from 1870 to 1875. I saw them together sometimes and sometimes separate. I saw Frank and Jesse James, Cole and John Younger and Tom McDaniel. I have seen two or three of them there together—namely, Jesse James, John Younger and James McDaniel; never saw all five together; they were generally armed and on horseback; they would stay around there may be a day and a night, or two nights, or may be not more than two hours; I supposed from what I heard and saw that they went together in a band.

Objection being made to the wide range of the testimony, the Court ruled that the State must confine itself to showing the preparation for a perpetration of the robbery and murder at Winston.

Witness further testified: There was a gang known as the James boys; I belonged to it at one time: I joined four years ago this fall, in the latter part of September, at Hudspeth's; I saw Jesse James at Ben Morrow's one day; Ben lives at Port Osage Township; I didn't go with

him at once. I did afterwards. The band was Jesse James, Ed. Miller, Bill Ryan, Tucker Basham and Wood Hite. That was in the fall of 1870, in Jackson County, of this State. From there, we went to six miles from Independence. I left shortly after that. The others left—that is, part went and part remained. Jesse James and Miller told me they went to Tennessee. I went to Tennessee in the summer of 1880. I went to Nashville. First I went to the High Ferry pike. I went with Jesse James. There we found Frank and Jesse James and their families. We stayed there two weeks. We remained in Nashville nearly a year after that. The others came there in the winter of 1880—that is, Bill Ryan and Jim Cummings. Bill Ryan was from Jackson County. Bill Ryan, myself and Jesse James went there together. That was my second trip. Ed. Miller was not there while I was there. Ryan and Miller stayed with Jesse. Cummings stayed with Frank awhile. Afterwards they boarded with a lady named Kent. I last saw Ryan in the last of February, 1881, about three weeks before I left Nashville. I don't know where he went. He got up and left very mysteriously. I have never seen him since. Jesse James lived for a while with Frank on the High Ferry pike. Then he boarded with Mrs. Kent, and then moved to Edgefield. He moved from there over with Frank on Fatherland street some time in February, 1881. Frank moved there the last of January or first of February, into a brown frame of one story, with four rooms and a porch. The house was No. 814. It was rented from Lindsay. While Frank was living there, there were with him Jesse James, Jim Cummings, and Bill Ryan. Frank and Jesse and I left March 26, 1881. Bill Ryan had been captured, and we took a scare and lit out. I had seen Bill the day he was captured. He was going to Logan County, Kentucky, to old man Hite's. I first learned about his capture when I got a paper on Saturday describing Ryan's capture on Friday. We got ready and left about dark.

We left on horseback. Frank had a horse of his own. Jesse and I captured a couple. We were twenty miles when those two horses gave out, and we got a couple more. We went to old man Hite's. We were armed. I had two pistols. Jesse and Frank had a Winchester rifle apiece. It was forty miles from Nashville to Mr. Hite's. We got there at sun-up. At the house we found Mr. Hite, wife and daughter; Mr. Norris, wife, and girl, and Wood Hite. We stayed there a week. There were some officers from Tennessee came after us. We went from there to Mr. Hite's nephew's, three miles off—Frank, and Jesse, and Wood Hite and myself. We stayed there a week, and went back to the old man's. We were all armed. We remained there only one night, leaving on Sunday night for Nelson County, Ky., 150 miles off. Frank and Jesse and I went up there on horseback. There was no one I knew when I got there. We stopped at Johnny Pence's, Bud Hall's, and Doc Hoskins'. An arrangement was there entered into for robbery by myself, Frank and Jesse James, and Clarence Hite. Wood Hite came afterwards. We first agreed to take the express where the train crossed the river. The river was high, and they had to transfer by boat. The river went down, and we got there too late, and we arranged to take a train here somewhere. This was talked over at Bob Hall's. Wood Hite was then at his father's. This was the latter part of April or first of May, 1881. Jesse's family at Nashville was a wife and one child. Frank's consisted of a wife and two children, living at Fatherland street. Jesse's wife came to Nelson County shortly after we got there.

From there she said she was going to Missouri. I never saw her after that till Jesse was killed. Jesse told me she came to Kansas City. He told me he was renting a house in Kansas City. He told me this in the fall of 1881. I don't know about Frank's wife except that Jesse told me she came out on the train to Gen. Joe Shelby's at Saline. She brought a sewing machine with her and gave it to her mother. Jesse first told me, and Frank told me afterwards about it. That sewing machine was shipped to Gen. Shelby's; so Jesse told me. Jesse made some kick about Frank's wife coming here, and Frank told me that it was all right, and that he told her to come and give the machine to her mother. This he told me on some road somewhere between here and her mother's. He objected because he said she told some things she ought not to. Her mother was Mrs. Ralston, and she lived some six miles from Independence. At Nashville Frank James went by the name of B. J. Woodson, Jesse was J. D. Howard, Ryan was Tom Hill, and I was Smith, from Nelson County. Frank and Jesse shipped two guns by Johnny Pence to John T. Ford, at Lexington. They were a Winchester rifle and a breech-loading shot gun. Jesse and I came here together on the cars to Kearney in May, 1881. We came over the Hannibal and

St. Joseph part of the way. We went from there to Mrs. Samuels'. Frank came out a week later on the following Saturday via the Louisville and Indianapolis. Mrs. Samuels is mother to Frank and Jesse James. She lived four miles from Kearney. I had been to her house before. Wood Hite came afterward. We found Clarence Hite here, he having come out with Jesse's wife to Kansas City, and then came to Mrs. Samuels'.

Wood Hite was not at Hall's when the plan for the robbery was made. The others left word where they would meet him. Clarence Hite was 20 years old. Wood was 33 or 34 years of age. When in Missouri I don't think he wore whiskers. If he did they were thin and light. His name in the gang in Missouri I could not give. We had to change names many times. I was Joe. Frank was Ben in Tennessee and Buck here, and Jesse was Dave in Tennessee. From Mrs. Samuels' I went on the cars to Clay County, and went back on the cars. My horse I bought of Hudpeth. He was a chestnut bay, with several distinguishing marks. At Mrs. Samuels' I found Frank James and Wood and Clarence Hite. Jesse came along afterwards. Jesse had bought a horse from his half-brother, Johnny Samuels. We started out in pursuance of an agreement about a week after. We four started on horseback—Frank, Jesse, Wood and myself. Clarence went on the cars to Chillicothe. We were going there to take a train. I rode the sorrel, Jesse rode a bay, and Frank and Wood Hite rode horses that Wood Hite and I took from a rack in Liberty. From Mrs. Samuels' we started to Ford's, in Ray County, and got there about three o'clock in the morning, and left there the next morning. The Widow Bolton, sister of Charley Ford, lived there—a mile and a half southeast from Richmond. From there we went to Chillicothe, at a moderate gait all day. We got dinner on the way. At night we four stayed at a church on the prairie. We got to Chillicothe about ten, stopping a mile and a half from town in the timber. Wood Hite went in after Clarence, and found him, and Clarence came out with him. The roads were so muddy that we went back, Jesse and myself to the old lady, Wood and Frank to the Fords', and Clarence to Mrs. Samuels' also. We stayed there three or four days.

Shortly after this we started out again. Four went horseback and one on the cars, Wood going on the train. We came up to this county to look out a place to take a train. Frank was riding a roan pony. He took her at Richmond, and Wood Hite had a little bay mare, taken at the same time. Jesse and I had the horses we rode on the previous trip. The horses gotten at Liberty were turned loose at Richmond. We started that night, and camped out before daylight somewhere in the woods. We were to meet Wood Hite at Gallatin. We stopped and had dinner with a Dutchman in a one-story frame close to the road, with a large barn 100 yards from it. He had a family of five or six children. He had a number of fine cows, and sold milk at Kidder. I left my leggings there and had to go back after them. I reckon this place was ten or fifteen miles from Gallatin. At that time I had short whiskers all over my face. Jesse was 5 feet 11 1-2 inches high, round face, pug nose, dark sandy whiskers and blue eyes. He weighed 195 pounds and stood very straight. Frank James had burn-sides and mustache. His whiskers were darker than his mustache. From that German's we went to Gallatin, first stopping in the timber to wait for Wood Hite. This was almost a mile from the town, on the road to Winston. I have never been to the place since.

We met Wood there. We started back. Jesse got sick with toothache, and the creosote he had swelled his jaw and his face and he had to go back. Clarence went on foot, and Frank, Jesse, Wood and myself went on and stopped with a man named Wolfenberger, some sixteen miles from there. I helped him load up a load of wood next morning. We had supper and breakfast there, and left next day. Clarence stayed somewhere else. Jesse was very sick and we had to wait on him. We started for Mrs. Samuels', and Jesse was so sick we had to stop at an old stockman's. Wood Hite took the train to the old lady's and Clarence stayed with us. (Witness described the stockman's place, as he described every other place where they stopped, with great minuteness.) Jesse got the stockman to take him in a buggy to Hamilton Depot. The others then started for Mrs. Samuels', but Frank and I went to Mrs. Bolton's, in Ray County. There was a week or ten days between the first and second trip. Frank and I stayed at Mrs. Bolton's a week, and then met Jesse, Clarence, and Wood at Mrs. Samuels'. In about a week or ten days we went on another trip. I rode the same horse as before; so did Jesse. Frank was riding a mare he got close to Elkhorn. We had a sorrel horse shod on the first trip by an old

man. I remember a dog and stool there. The dog jumped up on and knocked down the stool, and the horse started, knocking over the blacksmith, and I had to bring the horse back to the shop. We had some difficulty in making change. On the last trip we all had horses. Frank rode the bay mare from Elkhorn. Wood rode a dark bay, taken by Frank and I from old man Frazier in Elkhorn. Frank rode the sorrel I had started on.

We started at night. I assisted in robbing the Winston train on this trip. We started from Mr. Samuels' at dark, coming northeast to Gallatin. We rode till daylight, when we came into a skirt of timber, where we stayed all night till sunrise. I don't reckon we came over fifteen miles that night. Next day we scattered. Frank and Clarence went together, and I, Jesse and Wood Hite together. We three ate dinner at a white house on the road, with an old shed stable back of it. There we met Frank and Clarence late in the evening. That night we stayed in the timber where we next met Wood on the former trip. We didn't get supper that night. We left next morning. We left, Frank and Clarence together, Jesse and Wood together and I by myself, all going different routes. I got my horse shod in Gallatin on the last trip we were here. I can pick out the shop. It is off the square. It is an old frame shop. There is another shop right below. I had my horse shod all around. I also got a pair of fenders on the square to keep my horse from interfering. The saddler who sold them was a heavy man, with a dark mustache and a dark complexion. We had quite a little conversation over this trade. We were to meet about a mile from Winston. I got dinner on the way, and went on to meet the boys in a skirt of timber near where the road crosses the track. We waited till dark, hitched our horses and went up on foot to the train. Wood and I went together, and met Frank, Jesse and Clarence at the depot.

The arrangement was that I and Clarence should capture the engineer, and the others do the rest. Clarence and I got up back of the tender, and went over on top to the engine. We had two pistols. We kept quiet till the train stopped; then we hollered to go ahead. We shot to scare those fellows, who both ran onto the pilot. The first run was about two hundred yards, then a stop. Then the engineer opened the throttle to the usual level. We couldn't stop it. Frank came out and shut off steam, and as she slacked we jumped off while it was running. Frank and Clarence got off first. I went back after Jesse, who was still in the express car. Jesse jumped first, and I followed. We got \$700 or \$800 that night in packages. It was all good money. We all got together then, except Wood, who had been knocked down as Frank pulled the baggage-man out of the car, and we never saw him. Frank talked to me about the robbery afterward. He said he thought they had killed two men. Jesse said he shot one, he knew, and that Frank killed one. He saw him peep in at the window, and thought he killed him. From there we went to our horses, taking our time. We all unhitched, except Clarence, who cut his halter-strap. From there we went to Crooked River. The money was divided in a pasture, just before daylight. Jesse divided, giving us about \$130 apiece, before we got to Crooked River. Wood and I then went to Ford's, the others went toward their mother's. I stayed at Ford's about a week, and then went to Mrs. Samuels', but found no one but the family there. Jesse and Frank came to the Ford's a week later, and then all five of us went to Mrs. Samuels'. We left in a wagon. All the horses had been previously turned loose.

We went to Kansas City, crossing on the bridge. Jesse and Charley Ford got out at Independence. Frank and Wood Hite went to Doc Reed's, about four miles from Belton. Clarence and I went to McCraw's, fifteen miles east of Independence. Three or four weeks after I saw Frank James in Ray County, in September or October. He was at Widow Bolton's. He came there one night and left the next night for Kentucky with Charley Ford and Clarence Hite. They went to Richmond, missed a train, and took a buggy to the R. and L. junction and went to Kentucky. I have never seen him since. We were all armed with pistols at Winston. I had on a plaid suit; Frank had a bluish suit, all alike. I don't remember Jesse's suit. He had a dark striped coat and pants, and had on a big duster. Clarence had a dark suit, all alike. Wood had pants and coat of different cloth. I saw the guns that were shipped. I saw them at Mrs. Samuels'. Frank and Jesse had them. We didn't have them at Winston. The robbery was in 1881, in July. Either Frank or Jesse designated the meeting place at Gallatin, because no one else knew anything about the country.

At the close of Liddell's direct examination a recess was taken for

fifteen minutes, when Liddell, being recalled to the stand, further testified in reply to questions put by the defense, as follows:

By Mr. Phillips: I went back to Jefferson City with Sheriff Timberlake in 1882, in January or February. I was there shortly after that with Mr. Craig, of Kansas City. I saw Governor Crittenden both times, first at the depot and the other time at his office. I don't remember telling the Governor at either of those times that after the Winston robbery Frank James upbraided Jesse for killing any one, or reminded him of the agreement before the robbery that no one should be hurt or killed.

At this stage of the proceedings Governor Thomas T. Crittenden was, by consent of counsel, called out of time, in order to save him the trouble of staying here till his name could be reached in the usual order, and testified in behalf of the defense as follows:

By Mr. Phillips: Liddell did make such a statement to me as propounded just now. I think it was the second time he was at Jefferson City. It grew out of asking him why they killed an innocent man engaged in his duties. He said that it was not the intention to do it; that the understanding was there was to be no killing; that Frank had said there was to be no blood shed, and that after it was over Frank said, "Jesse, why did you shoot that man? I thought the understanding was that no one was to be killed, and I would not have gone into it if I had known or thought there was to be anything of that sort done." To which Jesse said, "By G—d, I thought that the boys were pulling from me, and I wanted to make them a common band of murderers to hold them up to me."

THIRD DAY'S TRIAL.

On August 27th the trial of Frank James, for murder in the first degree, was resumed at eight o'clock. Dick Liddell being cross-examined, testified as follows:

By Mr. Phillips: When I left Jackson County I went to Vernon County somewhere along in 1875 or 1876 and worked for my father, and some other parties also.

Question. What time were you tried there?

Objected to and the objection overruled.

I don't remember the date of the trial, witness continued. The party associated with me on trial was named Frakes. I was in the Penitentiary for that offense thirty-one and a half months. I left in June, but cannot give the year. I went to Hudspeth's, in Jackson County. I first saw Jesse James at Ben Morrow's, in 1879. I also saw Ed Miller and Wood Hite. I think this was in the latter part of September, 1879. I saw Bill Ryan and Tucker Basham at other places. Frank James was not there at that time. Up to 1879 I had not met Frank James. I joined the gang in 1879. We scattered out at this time. I went to Ft. Scott and stayed there about three months. I went the latter part of October or the first of November. We had been in some trouble and thought it best to scatter.

Q. What trouble?

To this question counsel for the State objected, as being an endeavor to investigate another and distinct offense. The point being raised that witness had a right to decline to answer if he should criminate himself, the Court informed witness of his privilege.

Mr. Phillips here stated his intention to investigate the Glendale robbery, which occurred October, 1879, and was therefore, so far as any question of privilege was concerned, barred by the statute of limitations.

Mr. Wallace averred that this offense was not barred, and the Court remarked that the statute did not run against robbery.

To this Mr. Phillips retorted that he didn't know whether the Glendale affair was a robbery or a larceny, which called forth the observation from Mr. Wallace that if the defense went into the Glendale matter the State would take up the robbery at Blue Cut.

Witness further testified: "From Fort Scott I went to Carthage; then came up to Six Miles, and went over to Mrs. Samuels', and from there, in July, went to Tennessee. Jesse James and Bill Ryan went with me to Tennessee."

Witness here detailed the course taken en route to Tennessee.

On this trip we did not see Joe Shelby or stop at his place. I never saw Shelby but once in my life, and that was in November, 1880. I was at his house then one evening and came back next morning again. We crossed the Mississippi at Cape Girardeau, went to old man Hite's in Logan County, Kentucky, and went to Tennessee to Frank James'. From 1874 I didn't see Frank till I saw him in Tennessee at his place,

three miles from Nashville, on the High Ferry Pike. From Frank's we went back to old man Hite's, and then I went back to Frank James' place in August, and stayed four or six weeks. From there we went to Atlanta. We left on Saturday night by rail, returning Sunday morning, a week later. We next returned to Missouri. We arrived about the 1st of November, 1880. Jesse James only came with me. Bill Ryan had come out in September previous. We came out after Bill Ryan. We didn't know but what we might do something. We went back without doing anything. We went back the same route. Bill Ryan, Jim Cummings, Jesse James and myself were the party that went back to Tennessee. Jim Cummings was five feet eleven inches high, very slender, with sandy hair and whiskers and blue eyes. He was about forty or forty-one years old. Mr. James (the defendant) and he are about one age. I never heard about his being a married man. First met Jim Cummings on the 1st of November, 1880, at Ford's, near Richmond, in Ray County. On this trip South we saw Gen. Joe Shelby at his house, or rather about 100 yards from his house, getting out hempseed. I and Cummings were ahead and the others were behind, we having previously separated to meet on Shelby's place. We rode up to the barn and then I went on foot to Gen. Shelby. We were not all together at the time we met Shelby.

Q. Did not Shelby on that occasion state to Jesse James that there were a couple of young men who had been arrested for the Concordia bank robbery, that he didn't believe that those men had anything to do with it, and asked Jesse if he knew anything about it, and didn't Jesse James turn to you and say, "There is that man that hit the Dutchman over the head and knocked him down," to which you made no reply?

A. There was never any such conversation between us.

Witness continuing said:

I went to Nashville, part of the way on horseback and partly by rail. I got there first and the others arrived two weeks later. Frank James was still living at his place until the last of January or first of February, 1881, when he moved into Edgefield. I had not seen Ryan for three weeks before his arrest, and have not seen him since. He was arrested for a breach of the peace, in which he drew a pistol, and was put into Nashville Jail. We left as soon as we heard of Ryan's arrest. We left March 26, and went to old man Hite's on the morning of the 27th. We borrowed the horses on which we made this trip. We didn't ask their owners' permission to use them, they being asleep. [Laughter.] Clarence Hite was the first one to tell us about the officers from Tennessee being on our tracks. Mr. Norris told us about seeing a posse of men fixing to go out somewhere. That same day (Sunday) we saw three men coming riding by the house. We thought they were coming after us, and Jesse and Frank and myself fixed ourselves. Frank went and fixed himself a place in the parlor by the window. I was in the hall behind the door, and Jesse on the opposite side of the hall near the door.

I decline to answer about any expeditions in 1879 on the ground that I do not desire to commit myself. I decline to answer who went with me. The defendant was not with me. From Hite's, in 1881, we went to Logan County, Ky., where I stopped first at old Dr. Haskin's, and afterward at Bob Hall's, and then started to Missouri. At Bob Hall's we made the arrangement about coming to Missouri. We went to bid Johnny Pence good-bye. By "we" I mean Frank James, Jesse James and myself. We went on horseback from Hall's to Louisville. I decline to answer where I got my horse. Jesse James went with me to Louisville, and I came to Missouri with Jesse James. The arrangement was that we were to come out here to take the express where it crossed the river at Kansas City, the river being high so that trains could not cross. There was no other definite object right at that time. From Mrs. Samuels, on the last of May or 1st of June we learned that the river had fallen, and this project was abandoned. I was in Clay County or Ray in June, and made one trip to Jackson County. The Chillicothe trip was some time in June, and only took four or five days.

Here the witness repeated the details of the Chillicothe trip, telling how they went into a church because of the rain, and had no supper or breakfast, and how Wood Hite went after Clarence, who had gone ahead by rail to bring out food, which was eaten in the woods. The rest of the cross-examination of Liddell may be accurately described by saying that Mr. Phillips took the witness over every step of ground referred to by him in his testimony in chief without eliciting anything which tended in any way to contradict that testimony. If anything Liddell's testimony to-day was more full and particular to dates, places, persons and description than on Saturday. He told how he had since

paid a visit to Gallatin, recognized some of the persons referred to in his direct testimony, such as Mr. Hamilton, the saddler, who sold him the fenders for his horse, and Mr. Potts, the blacksmith, who shod his horse. He detailed facts and circumstances without the slightest hesitation or confusion, and freely admitted that he was here now under guard of Marshal Langhorn, of Kansas City, ever since leaving that last-named town. His testimony was given in an easy, fluent, even, matter-of-fact way, and in a conversational tone. He was at no time embarrassed, and probably made but one slip all morning, when he described Woolfenberger's house, where the gang ate shortly before the Winston murder, as being southwest of Gallatin, whereas it is southeast. The State's counsel let the defense ask all the questions they wanted without objection, and witness did not seek to evade telling anything unless it had a tendency to criminate himself.

A little flash of feeling passed between Mr. Phillips and the witness towards the close of the cross-examination. Witness was asked about eating at a Mrs. Montgomery's, and answered that he knew nothing about Mrs. Montgomery, and was not with any parties who ate there, so far as he knew. He then turned to Mr. Phillips, and asked what time the question was supposed to refer to. The defendant's counsel tartly remarked that it would be time for witness to cross-examine him when the time came, when the Court administered a sharp rebuke to counsel, stating that witness had a right to ask the question of counsel, and that counsel must observe due courtesy towards witness.

Liddell redescribed the train robbery at Winston. He said that he and Clarence Hite were on the engine all the time except the time he went back over the coal to see if the brakes were on, and the time he went into the express car after Jesse James, after the thing was ended. The baggage or express car had solid doors. Jesse came out of the forward door when the train stopped and they all got off, and Frank came through the same door when he came over the tender to shut off steam. Witness heard firing back in the rear cars while he was still on the tender to the number of six or seven shots, and before he did any shooting himself. Witness did not fire a shot till after the engineer and fireman had run out on the pilot, when he and Clarence Hite fired two or three times each to bring them back. Witness did not hear any shooting at all after Frank James came over the tender. The shooting I heard was just after we started and before the first halt. If he heard a shot after the first halt he didn't remember it.

After the robbery witness and Wood Hite went to the Fords', getting there the Saturday night following the Friday of the robbery, where they were joined by Jesse and Frank James and Clarence Hite. I was at Nichols' house right after this, with the other four. We got there at midnight, and only stayed a few minutes to eat all the cold grub they had. Nichols and his wife were present. I don't think we were in the house, but that we sat around the platform of the well. I was also at Joe Hall's. Jesse and I stopped there one night to get some butter-milk. I don't remember any one coming down to the fence to see us. Nichols' place is about half a mile from Mrs. Samuels'.

Witness further explicitly denied ever seeing Jim Cummings during the summer of 1881. He denied also that in September, 1881, in company with Jesse James, Wood Hite and Jim Cummings, he met Joe Shelby in a lane near Page City, when Shelby was on horseback and in his shirtsleeves, and declared he had not seen Shelby except the time at his house and last Thursday at Kansas City. He denied that at Page City Shelby had asked where Frank James was, or that Jesse James had answered that Frank's health was such that he had been South for years, or that Shelby then asked witness when he had seen Frank, and that the reply had been that he had not seen him for two years. No such conversation ever occurred.

Witness also emphatically denied telling Joe B. Chiles, at Kansas City, that Frank James was not at the Winston robbery, but stated that he had a conversation with Chiles, in which Chiles said he had a pass from Governor Crittenden, and that he had been riding around on it, but that he had never looked for the James boys; never had tried to find them, and did not want to. Witness admitted that at or about the time of his arrest in Kansas City, he might have told Major McGhee that he (witness) was not at Winston. It was not probable he would go around telling everybody he was there.

Witness also denied in toto telling Frank Tutt, Coal Oil Inspector at Lexington, on the same occasion, that he didn't know where Frank James was, and that he had not been with the party for years, on account of Jesse and Frank having had trouble. Witness denied having heard Jesse James on another occasion tell John Samuels (Frank

James' half brother) that Frank was in Tennessee or Kentucky, and had gone South on account of his health, but he said he heard them asking for Frank, and that Jesse said he would be at Mrs. Samuels' in a few days. Witness also declined to answer the question, so far as inquiry by Mrs. Samuels was concerned, on the ground that it would criminate himself. Liddell declined to tell when or where he last saw Wood Hite, or when he first heard of his death, and declined also to answer whether Wood Hite was dead or not. He was in Ray County when he first heard of it. Was at Mrs. Bolton's at the time, with her brothers Wilbur, Captain, Charley and Bob Ford. From Mrs. Bolton's he went to Kansas City. He remembered Mrs. Bolton's house being raided in January, 1882, and crept out that night through a door. Hid next day in a field, and went to Kansas City about ten days later, but first went to Bill Ford's, uncle of Charley and Bob. There he first met Sheriff Timberlake, about a quarter of a mile from the house, in a pasture. Had been negotiating for a surrender with Governor Crittenden through Mrs. Bolton, who had brought him word to surrender to Sheriff Timberlake, the condition being that he was not to be prosecuted, but was to give evidence and assist in the capture of the James brothers.

Court here took a recess till 1:30 p. m.

On the reassembling of the court after recess Dick Liddell again took the stand, and testified that he had been in jail in Alabama for eight months, but had been released on his own recognizance to come to Kansas City, and there bailed by Messrs. Craig and Timberlake to come to Gallatin. I was turned out on April 28, 1883, stayed in Huntsville, Ala., a week, went to Nashville, and came on to Kansas City in June; have since been out West in Kansas and the Indian Territory; Mr. Wallace and Mr. Craig and those gentlemen paid my expenses; got back to Kansas two weeks last Friday. While last at Kansas City I boarded at the Court House in care of a Deputy Marshal. I had passes to travel on the railroads. Mr. Longhorne has charge of me. He has served a writ on me two weeks ago. I have not been put in jail under it, and have not given any bond. I paid my own way from Alabama, Bob and Charley Ford having sent me \$100 when I was there. I had only enough to get to St. Louis, and came the rest of the way on my carpet-sack and pistols. Have been to St. Louis since on a pass furnished by Mr. Wallace. I redeemed my carpet-sack and pistols. Capt. Craig got them for me. I have not been engaged in any business since my return from Alabama.

Re-direct examination by Mr. Wallace: At Winston we all had two pistols except Wood Hite, who had but one. And leaving the train we all loaded up, Frank and Jesse, Clarence and Wood and myself. The defendant loaded up and said he had fired several shots, he and Jesse both. I saw him loading his pistol. On one of these trips Frank had the little bay mare from Elkhorn, and on the second trip the horse I had shod was the Matthews horse. When I saw Sheriff Timberlake I told him I had sent a party to see the Governor. I don't know that I told Mr. Timberlake full details at that time, but I told him shortly after. I think it was after Clarence Hite was captured, in February, 1882—two or three weeks after I had given myself up. Jesse never had a horse after the Winston robbery. I never was with him when he was on horseback after that. In Kansas City, during the weeks immediately after the Winston robbery, the defendant and his companions when they went anywhere had to walk.

By Mr. Phillips: At the time of the Winston robbery the defendant wore long Burnside whiskers and a mustache.

William Earthman was recalled, and testified: At Nashville Frank James wore whiskers long all over his face, the whiskers being a little darker than his hair. I arrested Bill Ryan, not because he was drunk and carried a pistol, but because he said he was a robber and an outlaw against the State and country.

J. Thomas Ford testified as follows: I live in Ray County; am the father of Bob and Charley Ford. Have lived in Ray County, two and a half miles north of Richmond. In 1881 Mrs. Bolton, my daughter, lived half a mile east of Richmond. I know the defendant. I saw him in 1881. I heard of the Winston robbery. I saw the defendant a short time before that, between the 1st and 10th of July. He was alone. I went down there and ate dinner with him at my sister's. He went by the name of Hall. The defendant is the man I saw on that occasion.

Cross-examined: My son, Charles, in 1881, lived at the Harbison farm, where Mrs. Bolton kept house for him. Wilbur was there that year till August. Charley and Cap rented the farm in March, 1880,

and Mrs. Bolton kept house for them. Cap went to Richmond, Mo., and Wilbur took his place. They had all previously been living at my house. Mrs. Bolton lived with me for five years prior to moving to the Harbison place. Had seen Mr. Hall (the defendant) in the May previous to July, 1881. My son John told me who he really was the Sunday evening in May. I knew at that time that the officers of the law were trying to find Frank James. I told my wife, but never told any of my children that didn't already know it. I have seen Jesse James two or three times. First saw him in 1879 or 1880, when he came to my house. I know Dick Liddell. Think he first passed my house once with Jesse James in 1879 or 1880, when they stopped and got their supper. Afterwards I saw Wood Hite under similar circumstances in the fall of 1879 or 1880. It was in 1879 and not in 1880. I never knew Clarence Hite. Had often seen Jim Cummings in Clay and Ray Counties. He lived five or six miles from me. I remember also seeing Wood Hite and Jesse James at my place in September, 1881. Know James C. Mason, a neighbor of mine. I never told him shortly after Jesse James was killed that Frank was not in the Winston or Blue Cut robbery, or that he had not been in the county for a long time, or that I never knew anything about their being at my son's house. I always tried to keep from saying anything about them, because I thought it policy to do so. I never made any such statement to Wm. D. Rice either.

Re-direct—By Mr. Wallace:

When Frank James told me he hadn't seen his mother for five years it was at my son's, the last time I saw him there. My brother married Jim Cummings' sister. When I saw him the defendant wore "sideburn" whiskers and a mustache.

By Mr. Glover: Frank James said either he hadn't seen his mother for five years, or was trying to see her, or hadn't been in the county for five years. I haven't talked with Liddell since the winter of 1882. He was at my house twice since his surrender. He came there once before with Jesse James, some time in the summer of 1879. The last time I ever saw Wood Hite he was in company with Dick Liddell, in July or August, 1881. I never saw him, alive or dead, after that. I heard he was killed at the house where the boys were farming.

Elias Ford, otherwise Capt. Ford, testified: I have been staying in Kansas City the last few weeks, but am now staying at Richmond. I know defendant. First saw him about the 1st of May, 1881, at Charley Ford's. When I saw him there were present Frank and Jesse James. I can't say about Liddell or Wood Hite being present or not. I walked with defendant that day. He went by the name of Hall. Jesse introduced him under that name. First saw Jesse in September, 1879, at at my father's, with Ed Miller. I have seen Frank James often since. In June and July; about the 1st of July, 1881, with Jesse, Dick Liddell, Clarence Hite and Wood Hite. Saw him next again about August 1. The same party were there then. They were riding. Frank was there a week or ten days. He had side whiskers and a mustache. I have a brother J. T. Ford. I know of a box shipped to him at Richmond. I couldn't see where it was from. It had a couple of guns in it. I opened it at John Ford's store, in Richmond. The guns were a double-barreled shot-gun and a Winchester. Jesse took the rifle off. I don't know who took the shot-gun. I know Jim Cummings. I got acquainted with him in 1871 or 1872; last saw him in the fall of 1881 at Charley Ford's house. I know him well.

The cross-examination of this witness, Elias Ford, afforded no matter of interest till he was asked if he did not help to bury the body of Wood Hite in the brush near the Woods pasture in Ray County, which question the State's counsel objected to, and the Court sustained the objection.

Defendant's counsel then asked witness whether Dick Liddell didn't kill Wood Hite, which involved a similar objection and ruling. The Court also ruled that defendant need not answer a question as to whether he did not keep concealed the body of Wood Hite all day till it could be buried. The argument over this point was sharp and bitter. Defendant's counsel gave as their reason for putting the question that they desired to show that Liddell had killed Wood Hite, and then gone and given himself up, and given away the rest of the gang to secure immunity for that crime.

The Court adhered to its previous ruling, that the questions asked were improper, and that a witness' conduct could not be shown by proof of special bad or immoral acts. Liddell's credibility might be attacked, but not in that manner.

Witness further stated that he had been working for Captain Craig,

of Kansas City in looking after the James boys, and that he quit looking for them in October of last year. Since then he has been staying at his father's.

Re-direct-examination—By Mr. Wallace: The Winston robbery was in July, 1881. Have not seen Jim Cummings since 1880.

Re-cross-examination: I heard of Jim Cummings being in the neighborhood about June 18, 1882.

Mrs. Martha Bolton testified: I live at Richmond, Mo. Am the daughter of Thos. Ford, and a sister of Bod and Charley Ford. I know Frank James. First saw him at my brother's in May, 1881. He came there one night with Jesse James. I first saw Jesse James in 1879 at my father's. Ed Miller was with him. At the May, 1881, visit Jesse stayed all night and Frank stayed a week, reading Shakespeare and other books in his room. I saw Dick Liddell, Wood Hite, and Clarence Hite there. They all went away together with Frank James. At that time Frank wore side whiskers and mustache, and went by the name of Hall. I saw him again two or three weeks after, in company with Dick Liddell. They went away together. He was gone two or three weeks, and came back again and stayed till the 4th, 5th and 6th of July, before the Winston robbery. After that I saw him and Jesse and Clarence Hite come there about the last of July. Wood Hite and Liddell were there already. That time they remained two days, and left together. I next saw Frank James about the 1st of October. He came with Charley Ford and Clarence Hite. Dick Liddell was already there. They all left my house together for Richmond. Never saw Frank James or Clarence Hite after that. I know Jim Cummings. He was once at my house in Richmond; that was in 1879, I believe. I did not see him the summer that I have described seeing the other men I have named. I have heard that Jim Cummings was there in the spring of 1881. Never heard of his being there in the summer or fall of 1881.

Cross-examined: Liddell was in the house January 6, 1882, at the time of the raid, when he escaped. I didn't ask him how. Wood Hite is dead. He died December 5, 1881. He died about one hour before sunrise that morning. The question of how Wood Hite came to his death, or what was done with his body, or where he was buried, were all peremptorily ruled out by the Court.

Witness continued: The raid on my house was made about the 6th of January following the 5th of December on which Hite died. Liddell gave himself up alone the 20th of January, 1882. I went to Jefferson City to see the Governor on business, between January 6 and 20. Bob Ford sent me there on business. I went there to make arrangements for the surrender of Dick Liddell. Dick surrendered on condition of immunity from punishment, and that he would testify against the rest of the band. I know James C. Mason. He lives about three-quarters of a mile from me. I never told him, shortly after Jesse's death, that Wood and Clarence Hite, Jesse James, Dick Liddell and Jim Cummings were in the robberies, or that I thought Frank was trying to lead an honest life, and was different from Jesse, or that Frank would move to different places when Jesse would go to where he was, and when the detectives would come after Jesse, Frank would have to leave, or that Jesse James, Wood Hite, Clarence Hite, Dick Liddell and Jim Cummings were at my house just before and after the Winston robbery, and that Frank James was not. I did testify before the Coroner's inquest over Wood Hite's body, but I did not state at that inquest that I had not seen Frank James for two years, or that he had not been at my house or my brother's in that time.

An attempt by the defense to get witness to talk about the killing of Wood Hite, or of her conduct on the day of his death, was emphatically sat down on by the Court.

FOURTH DAY'S TRIAL.

Here the jury entered the court-room, and Mrs. Bolton, taking the stand, was informed by the Court that she need not answer any self-criminating questions. In answer to questions by Mr. Glover, the witness said: "On Sunday, December 5, 1881, Bud Harbison and William Jacobs were at my house. They reached it in the afternoon. We had dinner that day between 12 and 1 o'clock."

Q. In what room of your house was Wood Hite killed?

Objected to as being a collateral matter, and that if it were to be gone into Dick Liddell would enter his appearance to the charge within thirty minutes. The Court overruled the objection.

A. He was killed in the dining-room. I don't know how long after that his body was taken up-stairs. I refuse to answer whether his body was taken up-stairs. I had nothing to do with his killing. [Coun-

sel for defendant here admitted this to be a fact.] I do not know who took the body up-stairs or how long it remained there. I didn't go up-stairs to see it, was not in the room afterwards, and haven't been in it since. I don't know when the body was taken down-stairs. I was there that night. I didn't see any one that evening but my own children. I don't know who took Wood Hite's body down-stairs. I saw no coffin there that day. I did not see the body carried out. I don't know when the body was taken out. I didn't tell William Jacobs nor Bud Harbison nor any one that Wood Hite's body was up-stairs. He was buried about two hundred yards from the house. His body was covered with a sheet when I saw it after it had been exhumed. Hite's body had been out there about five months before I saw it at the time of the inquest. In the winter time my dining-room and kitchen are all in one.

Here the Court ruled again that Liddell's connection with the killing of Wood Hite, or his whereabouts on the day of Hite's death, were not to be inquired of by this witness.

Witness further testified: Wood Hite was killed in December, and I left that house in February, as I understood Wood Hite and Jesse James were cousins.

At the close of this testimony Mr. Wallace vigorously protested against the manner in which the examination of Mrs. Bolton had been conducted by the defense, and flung down the challenge that if Liddell's connection with the Wood Hite killing was to be inquired into, he (Wallace) would enter Liddell's appearance to answer that charge, and it might be inquired of before the jury now trying Frank James.

Elias Ford, otherwise Captain Ford, being recalled, the Court notified defendant's counsel that while they might show this witness' connection with the Hite killing, they could not show the connection of any other witness with that matter.

Witness then testified: I was at Mrs. Bolton's on December 5, 1881. Wood Hite was killed in the dining-room of that house about 9 o'clock. I got there about ten minutes after the shooting. I didn't see the body taken up-stairs. The body stayed up-stairs till about 9 o'clock in the evening. I refuse to answer who took the body out and buried it, on the ground that it would criminate myself. I saw the body taken out that night. Four persons carried the body out. I know where the body was buried—about one-quarter of a mile east of the house in the brush. There was no coffin. He was wrapped in a blanket and placed in a trench three feet deep, and covered with earth and some stones and brush. He was only partially clad in his clothes. He wore a gray suit when he was killed.

Re-direct—By Mr. Wallace; Dick Liddell was shot and wounded this time and was a long time, recovering from his wounds.

This admission was jerked out suddenly, and was in before the jury before any one could prevent it. The prosecution kicked about it most vigorously.

Miss Ida Bolton, a thirteen-year-old girl, in a blue dress and straw hat, testified: I know Frank James. I see him now. I knew him well. I saw him at Uncle Charley Ford's, a mile and a half east of Richmond, Mo. I lived there with him (Charley Ford) two years. During the second year I saw Mr. James, who went there by the name of Hall. I saw him five or six times. The first time I saw him was in May. Jesse James was there, too, going by the name of Johnson. That summer I also saw Dick Liddell, Clarence and Wood Hite. Liddell went by the name of Anderson, Clarence Hite by the name of Charley Jackson and Wood Hite by the name of Grimes. After the first visit I saw defendant there two or three weeks later, and again saw Frank James there later in the summer. He wore side whiskers. I last saw him there in October, 1881. Clarence Hite and Dick Liddell were there. When defendant left that time, Clarence Hite and Uncle Charley went with him. I know Jim Cummings. I saw him in 1880, in the fall. That is the last time I saw him.

Cross-examined—By Mr. Glover: I came here Friday. Mr. Ballinger brought me and paid my expenses. Have talked to Mr. Hamilton and Mr. Wallace about what my testimony would be. I have not talked it over with my mother, Mrs. Bolton. The last day I saw Frank James was the 9th or 10th of October, 1881. He was dressed in black coat, vest and pants. Saw Clarence Hite the same day. He wore dark clothes and a drummer's hat. I saw Dick Liddell that day, too. They left that day at 5 o'clock on foot, all walking together. Uncle Charley Ford went with them. Cummings had not been there that year. In the summer of 1881 Jesse James came there. He was there the first day of May. He was there between May and October of 1881,

but I don't remember the time. He came in the night. The first time Dick Liddell came, in the summer of 1881, Jesse James was with him. Dick wore a gray and Jesse a black suit. Dick had a mustache, but no whiskers, and Jesse had whiskers about an inch long. Dick had whiskers in the winter. Frank James was there from May 1 to May 6, 1881. Dick Liddell was there the first part of June. Clarence Hite was there some time in July. Wood Hite was there off and on all through the summer. I remember he was there in September, about the 16th or 17th of the month. I don't remember the day of Wood Hite's death, but remember the place. It was in 1881. He was killed in the morning about 7 or 8 o'clock. Uncle Bob Ford and ma and Dick Liddell were present when he died. I didn't see him taken upstairs. He was buried in the night. I don't know who took him out or who buried him, or how he was buried, or where. I left the house in January, 1881, after the time an armed posse raided the house. Mother and I moved away from the house in March. I remember mother going to Jefferson City to see Governor Crittenden and her return. Dick Liddell left about a week after her return. The last time Jesse James left there was during the Christmas holidays of 1881. I saw Cummings there in the fall of 1880. I first saw him in 1878. Never saw him but twice. I have never heard of his being in that country in 1881.

Willie Bolton, a light-haired boy of 15, and brother of the last witness, testified: I know the defendant. I first saw him in May, 1881, about a mile east of Richmond, at the Harbison place, when Cap and Charley Ford were living there. Saw Frank James four or five times that summer. He had side whiskers at that time.

Cross-examined: I remember Wood Hite's death. He was killed about 8 or 9 o'clock on the morning of December 2, 1881. I saw the body that night. I heard the shooting at the time, went to the house from the barn, where I had been milking. I did not go into the room where the shooting occurred. I don't know when or by whom the dead body was taken up-stairs. His coat, vest and pants were removed and a horse blanket put on him. He was then taken down and buried in the Wood's pasture. In a conversation with A. Duval, in the presence of W. D. Rice, near the Ford residence, in Ray County, on August 17, 1883, I did not say I knew Frank James at our house as Mr. Hall, but did not know him to be Frank James, but that I intended to swear it was he anyway. I testified before the Coroner on the occasion of the inquest over Wood Hite. Don't remember any conversation with W. D. Rice shortly after that inquest. I did not tell him my mother had made me swear the way I did at the inquest.

Brief proof was here made by the State that the different members of the Ford family had been brought into court on attachment.

James Hughes testified: I live at Richmond, Mo.; have been living in Ray County since 1830. I have seen the defendant since I have been here. I saw a gentleman that resembled him very much last fall a year ago at the depot in Richmond. I conversed with him. I think the defendant is the man. I saw him at the depot in September or October, 1881. I went to the train. There were three gentlemen wanting to get off on a freight train to the R. and L. Junction. The train didn't come, and the party I refer to asked if there was any other way of getting to the junction. I looked at my watch, and said it could be made by taking a hack. The prisoner and the two gentlemen who were with him got a 'bus at Mr. Swartz's livery stable, and went in the direction of the junction.

Cross-examined: I cannot remember how the party I speak of was dressed, or how he wore his whiskers.

Thomas Ford, or "Old Man Ford," was recalled to show that he was brought into court by attachment. He last saw Jim Cummings in the fall of 1881. Have never seen him since.

Cross-examined: I saw Cummings during 1878 and 1879, when I lived in Clay County. I don't remember the precise time at which I saw him. I don't think I saw him in 1879, but I am satisfied I saw him in 1880. I saw him five years ago last winter at my house in Ray County, and then again in 1880 at my house in Clay County.

The court here took a recess till 1:30 p. m. Joseph Mallory was the first witness called after recess, and testified: I have lived in this county about forty-three years. I remember hearing of the Winston robbery. I then lived eight miles west of Gallatin and four miles northeast of Winston. I think I have seen the defendant before at Mr. Potts' shop getting his horse shod. It was Thursday morning prior to the robbery at Winston. He and another gentleman were there together. The other was a slender man of ordinary height, a little humped in

the back. They were getting a horse shod—a small bay nag. The defendant was holding the horse. I and he conversed there about most everything relative to Garfield's assassination, and so on, and defendant said he was going up to Nodaway to run a race there at the fair. Mr. Potts said they came from Caldwell, and they themselves said they came from Ray County.

Cross-examined—By Mr. Rush: Never saw any other strangers get horses shod at that shop. The other man present when the horse was shod was clad in a dark suit, but not of a solid color. Mr. Whitman and a Mr. Wm. Hughes were also there. I remember when the horse was shod the man went to pay Mr. Potts and said, "This is all the change I have got," pulling out some silver. The man that held the horse had whiskers on his face and chin about three or four inches long, of rather a light color. After I left the blacksmith shop I saw the two men going west. I did not see the defendant after that till I saw him in jail here. At that time I could not identify him on account of the dim light. I believe now that he is the man I saw at Mr. Potts' shop.

Jonas Potts testified: I live in Davies County, about four miles northeast of Winston. I have seen the defendant, Frank James. I saw him once at Independence, and before that at my shop some time in the latter part of June, 1881. He was at my house twice on or about the last of June, and again on either the 13th or 14th of July. I shod a horse for him. There was another man with him with full mustache and whiskers, which I think were colored. I met this other man here the other day. I knew him the moment I saw him. On the first time the horse shod was a sorrel horse of good size, with a blaze on his face. On that occasion my dog ran against the shoe-box and scared the horse, and he ran out of doors. This was shortly before noon. We had some little conversation when it came to paying. There was fifty cents short, and the otherman (James) said he would play me a game of seven-up whether it was \$1 or nothing. I told him I had no time, or he couldn't say that twice. As it was I had to send out and get change. On the other visit there came a slender fellow with the defendant. A slender man, tall, light-complexioned, with light whiskers and mustache, and a couple of black teeth. The other man called him Clarence. They came a little after sun-up and had us get them breakfast, and I shod a little bay mare for the defendant. I had considerable talk with the parties when they called the first time. Mr. James did most of the talking both times.

Cross-examined: Mr. James came both times with a different companion each time. At the first visit Liddell wore a heavy mustache and short whiskers all round his face. James had side whiskers that were darker than his mustache. Liddell wore a light plaid suit, rather worn, and a black hat. He had on boots, and the other man also. Mr. James' companion on the second visit wore light, grayish clothes. I would judge him to be 5 feet 10 inches, slim, with light complexion, blue eyes, light mustache, Burnside whiskers about an inch long. Frank James was dressed on this second occasion in a dark suit with a gold speck in it, and had his whiskers like they were on the previous visit. On this second visit Frank James talked a long time with Squire Mallory. This was about the 13th and 14th of July, 1881. The Winston robbery was on the 15th. I had never seen Liddell before, but was under the impression I had seen Mr. James at the Kansas City Fair, when Goldsmith Maid trotted there, and at the Hamilton Fair. First saw Mr. James after his arrest at Independence. Went down there with Loss Ewing, of the Rock Island Road. He furnished the money, except what little I spent in a saloon. At that time I didn't come to any conclusion at all, but it was such a dark place that I didn't have a good chance to see him. When I got a good look at him, I was perfectly satisfied he was the man. Loss Ewing introduced me to him. I shook hands with him and don't think I did any talking. I didn't tell the defendant on that occasion that I had shod a horse for him once. Subsequently saw the defendant in the Gallatin Jail. Did not then fully make up my mind that he was the man. In June, I saw him in the court-room and in the Court House yard, and made up my mind that he was the man. I don't remember telling Marion Duncan, about a month after Jesse James' death, that I had seen Jesse James' picture, and that he was one of the men for whom I had shod a horse. I remember being slightly in liquor on that occasion, and that he was trying to pump me.

Q. Where did you get your liquor?

A. At Winston, I suppose, where you got yours. [Laughter.]

Witness added: I know John Dean. If I ever told him anything I don't know it. I never told John Dean after I had been to Indepen-

dence that I had never seen Frank James before. I don't remember telling G. H. Chapman after I had been to Gallatin that I had no way of telling whether Frank James was the man whose horse I had shod. I never made a similar denial to Robert Simpson, turnkey of the Independence Jail. I will explain my wife's shaking her head when Mrs. Annie Winburn asked her if Frank James was the man who ate at our place, by saying that she shook her head because she didn't want to tell; because there were too many sneaking round and listening. I never said on Saturday last in the Court House yard in the presence of F. W. Comstock that from what I had heard of Liddell's testimony, he might have had a horse shod at my place, but that I had no recollection of the transaction. I never said any such thing.

By Mr. Hamilton: I don't know any man by the name of Comstock, unless it be a man who was introduced to me who owns a sorrel horse. At the shop, when I shod his horse, the defendant gave me his name as Green Cooper, and said that he lived in Ray County and was a cattle dealer. I believe I have seen the little bay mare I shod on the trip in a livery stable at Liberty. She had on a pair of shoes in front that I thought I fitted up. I think I can recognize my work when I see it. I saw this mare about a month or six weeks after the Winston robbery. I was going through the stable, when a boy showed me the mare, telling me not to go too near her, as she was a kicker and was Jesse James' mare.

Re-cross-examined: I believe those were the shoes I fitted up for the mare. I heard from some source such a mare was reported to be there, and I went there to see her. The defendant gave his name as Green Cooper on the first visit. I may have told Squire Mallory of this name. Don't think I ever told Mr. Hughes.

G. W. Whitman testified: I live in Davies' County, four miles north-east of Winston. Have seen the defendant. I saw him at Mr. Potts' shop on the 14th of July, 1881. He got a mare shod there on Thursday morning. There was a man with him with light whiskers and just a patch on his chin. He had a small-sized mare. It was a bay mare, about 15.1-2 hands high. The defendant was getting her shod. I was there about an hour and a half. Mr. Mallory and Mr. Hughes were there, too. Squire Mallory and defendant did all the talking, except that as the two strangers left, the defendant, in reply to a remark of mine, said he thought Mr. Potts had done a good job. I have since seen the defendant at the June term of court and recognized him as the man I saw the morning in July, 1881.

Cross-examined. When the horse was shod defendant wore lightish whiskers, rather short all around his face except the chin.

Re-direct: He had a mustache, too. I am positive he is the man.

Frank R. O'Neill testified: I live in St. Louis, and have been connected with the St. Louis *Republican* as reporter for nearly the last ten years. I know the defendant. First saw him in October, 1882, before he gave himself up. Had an interview with him and published the same by consent. Stated in that interview that he went to Nashville in the fall of 1877, being then in ill-health; that he farmed and drove for the Indiana Lumber Company, and lived a hard, laborious life for four years; that he was well known in Nashville as B. J. Woodson; that there he met Jesse, whom he had not seen for two years; that he left Nashville. He also talked about Cummings and described him as a man easily frightened. Cummings went away and they were afraid he had gone to give the boys away. Ryan was arrested shortly after. What the defendant had done since that time was passed in the interview by mutual consent. He spoke of Cummings as a lazy man who drawled in his speech. He said, too, that Jesse, Jim Cummings and Dick Liddell were all at Nashville at the time he was; that after Ryan was arrested he and Jesse left. He said he went unarmed while in Nashville, and that he never had any trouble there except on one trifling occasion, and that he numbered several of the officials among his friends. When armed he carried a Winchester and a pair of Remingtons. Defendant had read the interview as printed. He noticed no error.

Witness was here asked where the interview took place, but begged to be relieved from stating further than that it occurred in Missouri. The defendant's wife was present. Witness declined to state who were present besides those named, and was given till morning to decide whether he would answer touching the place and time of the interview and the names of the parties present thereat.

Mrs. Jonas Potts testified: I live eight miles from here. I have seen the defendant at my house the 13th or 14th of July, 1881. The

Winston robbery was the 15th of July. The man who came with him had light whiskers and blue eyes, and had a stoop in his walk. I think we talked, amongst other things, about the Talbott case. He remarked that a mother never forsook her children. When they left the breakfast table the taller one, or defendant, said, "Clarence, make out your breakfast."

Gen. Jamin Matchett testified: I reside in Caldwell County, Mo. I remember the Winston robbery. Was living three miles from Winston at the time. Believe I saw Frank James at my residence on July 14, 1881. A Mr. Scott was with him. Scott was five feet eight or nine inches high, brown hair, a few freckles and a very ill-formed mouth, with irregular teeth; somewhat slim. They came to my house about 11 o'clock. One of the party rode a bay, the other a sorrel, with two white hind legs. They first inquired for some one on the premises. I came down-stairs to the front door. They wanted to know if they could get dinner. I said I would see my wife, who objected somewhat as she was washing, to which they remarked they were in no hurry, and I then told them that they could be accommodated. We watered the horses, which they tied to my shade trees in the orchard and then inquired for feed. I stepped into the field and brought bundles of oats. One of them inquired if they were fresh cut, and being told they were, said they didn't want to feed any green food, and I gave them a blunt ax and they cut off the green part. When they rode up I noticed they were wearing heavy goods for that time of the year, and had gum coats or blankets strapped to their saddles. One gave his name as Scott from Plattsburg, Clinton County, and the other, the defendant, said his name was Willard, and had been in Clinton County about eight years, and came from the Shenandoah Valley. We talked some about the Shenandoah Valley, Virginia.

I inquired of Willard where he had been between the Shenandoah Valley and this section, and he never answered me, but said, "What do you think of Bob Ingersoll?" We discussed Bob for some time, till we differed so that I went to my library for a volume of his lectures, which I gave Willard, and he read some till he fell asleep. At dinner we talked about Clinton County. I asked some questions about Lawson, which Willard answered, and then later I asked about Greenville, Clay County, once called Clintonville, which Willard did not answer, but said, "What is your judgment of the Talbott boys?" We then discussed the Talbott boys, and Willard expressed himself with indignation at boys doing crimes of that kind. Willard wanted to pay for the dinner, and I declined at first, but finally took fifty cents. In conversation with Scott he observed he would take me for a minister of the Christian Church, and I answered that I was. He said he thought if he ever united with the church he would join the Christian Church, and referred to his wife as a Presbyterian. Willard acquiesced in that, but said there was no man ever lived like Shakespeare, and declaimed a piece and remarked, "That's grand!" which observation I indorsed. Finally Scott said something about going, and I invited them, if they ever came that way, to call again, which they said they would be pleased to do, that they were going to Gallatin, where Willard said he had not been for ten years. I recognize the defendant. When he stopped at my house he had whiskers on the side of his face. I am not certain about the chin. He had a tolerably fair mustache, and his whiskers were darker outside than near the skin.

Cross-examined: I am this confident the defendant is the man who stopped at my house that if he hadn't paid for the dinner I would say, "Mr. Willard, I would be pleased to have the amount of that board bill." [Laughter.]

Ezra Saule testified: I live two miles northeast of Winston. I have seen the defendant here. I saw him on the line of the railroad, about one-fourth of a mile south of the track in the country, nearly two miles from Winston, between 4 and 6 o'clock on the day of the robbery. I live about forty or fifty rods north of the road. The meeting was half a mile from my house in a secluded place in the woods. I had started out for berries and to fetch my cows. It was a low place, heavily wooded on three sides and scattering on the other. I saw him under suspicious circumstances, and talked to him about an hour. We talked about the weather and Kansas. He pretended to be buying fat cows for that market; said he had lost a cow, and had been looking for her. He said he had a partner. I saw no partner, and on the saddles were packages like blankets or gum-coats. He said his partner was thirsty and had gone to D. C. Ford's for a drink. In about three-quarters of an hour a man came up from the opposite direction, whom I took for the partner.

This partner appeared to be 22 years old, as I described him next day to Squire Jeffries, 5 feet 8 or 9 inches high, slender, hollow-stomached, with shoulders that leaned forward, and a general kind of consumptive mien. His beard was a little yellow fuz, and he looked as if he was trying to raise a mustache. Before seeing the man I struck on an old road not traveled for twenty years. There I found a horse hitched, saddled and bridled, and twenty yards from that was another. They were both bays, or rather one was a sorrel with white stockings on her hind legs, and then I saw this man. By and by his partner came up, and was much more sociable and communicative than the one first met. Next day I went to the trestle work on the railroad, where I discovered four horses had been hitched, and then I found another, and here is a little trophy I found [producing a halter-strap.] I also saw a halter-strap picked up there by another man, which looked as if it had been cut off or broken through. I recognize the defendant as the man I saw that night.

Cross-examined: I thought I had found a horse-thief, and that he had a partner. The next time I saw this man was in the Court House here in February, 1883. I was here in response to a subpoena. I do not take more interest in this case than any citizen should. I shall not be disappointed if he is acquitted. I don't know that he was armed, but from the way in which he handled a coat on the ground, it seemed as if there was something heavy in the pockets, and I kind of imagined there might be some bull-dogs there, but I didn't see them. I noticed that the whiskers of this man were darker on the outside than near the skin. I mistrusted they were dyed.

FIFTH DAY'S TRIAL.

George W. McCrow, first witness for State, testified: I live in Port Osage Township, Jackson County. I know Dick Liddell; have known him for the last five years. I remember hearing of the Winston robbery. There was a man left a wagon at my house some time after that robbery. The man was a stranger. The wagon has never been claimed, and is there yet. I know Lamartine Hudspeth. He lives six or seven miles from me. I know a sorrel horse that he owned before and after the robbery. I cannot describe the horse particularly.

Cross-examined: I have seen other sorrel horses at Hudspeth's. I am a brother-in-law of Mattie Collins, wife of Dick Liddell.

W. R. McRoberts testified: In the spring and summer of 1881, I was agent for the Wabash, at Richmond, Mo. The express books were kept by W. L. Stewart. I know his handwriting; have seen him write every day for thirteen months. I find an entry of the shipment of a box from Lexington, Mo., on May 18, 1881. The entry is in Stewart's handwriting. The entry reads: "W. B., 118, May 18, Lexington; one box, 40 pounds; J. T. Ford; back charges, \$1.95; our charges, 35 cents; total, collect, \$2.30."

Miss Ella Kindigg testified: I live nine miles west of here, and four miles from Winston. I have seen Dick Liddell here. I will not state positively that I have seen him before, but I saw a man with features like him on July 15, 1881, on the day of the Winston robbery. He had dark hair and whiskers. He came there about 11:30 a. m. and stayed to dinner. There was no one with him. The house is a low frame, with trees all round, standing about 100 yards from the road that runs west. My mother and brother were there, and two of Mr. Mapes' girls. The oldest is a simple girl, 18 or 19 years old, with sore eyes.

Cross-examined: The party I saw at our house had on a linen duster.

Mrs. Samuel A. Kindigg, mother of the last witness, testified: I have seen a man called Dick Liddell here in court. He looks like a man that took dinner at my house on the morning of the Friday on which the Winston robbery occurred. The man who called at our house was 5 feet 9 inches high, with dark hair, light eyes and chin whiskers. His whiskers were just started out. I don't remember whether he had a mustache or not. The day I saw Liddell here I asked him if he had ever seen me before. He said that he had, and had taken dinner at my house.

Cross-examined: I did not need to have Liddell pointed out to me. I knew him when I saw him. My conversation with him occurred last night as I was passing along the sidewalk.

Wm. Bray testified: I live at Hamilton, Mo. In the summer of 1881 I lived two miles west of Hamilton, in a story and a half house, with a little stable back of it. I have seen the defendant. I saw him, or a man that looked like him, at my house some two or three weeks before the Winston robbery. Was not home at the time, but found the de-

fendant and three others there when I came home. One of them was sick with the toothache.

This was a low, heavy-set man, with about a week's growth of sandy beard, and the other was a smaller man, with a large tooth. Have seen Dick Liddell since, but will not say that he was there, but believe him to be the man that was out in the stable most of the time. The day they called at my house I took the man with the toothache to town and he had his tooth pulled.

Cross-examined: The party with the toothache was almost 5 feet 8 or 9 inches high. The defendant wore Burnside whiskers of tolerable length, say two or three inches long, of light sandy color.

R. E. Bray, son of the foregoing witness, Wm. Bray, testified: I have seen the defendant. I saw a man that looked like him at my father's house some two or three weeks before the Winston robbery. There were three others with him. Three went away on horseback, and a low, heavy-set man, with the toothache, with my father in his buggy. I was told Dick Liddell was here, and when I saw him I thought he was one of the men who stopped. I don't know that I would have recognized him if I had met him on the road.

Mrs. William Bray testified to seeing the defendant at her husband's house some ten days or two weeks before the Winston robbery. Three other men came with him. One of the men was a spare-built man with light hair, large teeth, slight mustache, and little or no beard. The heavy-set man had sandy beard of two or three days' growth. The defendant looks to me as like one of the men that was at my house. I talked to the defendant that day about the sickness of the heavy-set man. He thought his sickness was caused by the use of creosote for the toothache. The defendant told me they stopped the night before at A. M. Wolfenberger's, where they pulled and ate cherries in the morning.

Cross-examined: The man called Liddell came to the house with the heavy-set man that was sick and asked for a vessel to carry water out to him. I gave him either a pitcher or a quart cup. In the meantime the heavy-set man got off his horse and got in the shade, so that his companion had to call out for him. He called him Dave, and Dave answered him. After that two others came up. They all had dinner at our house. They spent most of the time out of doors in the shade, in their shirt-sleeves. The defendant that day wore Burnside whiskers, tolerably long, and a little thin mustache. I don't think he had any chin whiskers. He had a dark coat, grayish pants and black hat. Think I would recognize the defendant more easily than I would the man called Liddell should I meet him in the road.

Re-direct: I would recognize the defendant more easily because he sat facing me at the table, and I talked with him. On three or four occasions when he came in the house I remember talking with him about physicians, and he said the sick man was anxious to go to Cameron to see a doctor there. They went south, as they left.

Mrs. David Franks testified: I have seen a man at our house eight miles west of here that represents the defendant from the face upon July 13, 1881. There were three men at dinner there that day. One was a tall, slim man that wore Burnside's. Another was slender and lightly complexioned, while the third was heavier.

Cross-examined: The defendant's hair was dark brown and his whiskers blacker than his mustache. He had a face tanned by riding in the wind, and wore dark clothes and boots. This was two days before the Winston robbery. One of the other men wore a light checked plaid and a dark hat.

Re-direct: I guess we live about three miles southeast of Mr. Jonas Potts' blacksmith-shop.

Frank Wolfenberger testified: I live eight miles southwest of Galatin. I have seen the defendant here in court. Saw him before at my home, in the latter part of June, 1881. Three other men were with him. I recognize one of them as Dick Liddell. Another was a heavy-set man of about 5 feet 10 inches. The other was not so tall, and round-shouldered, and in walking let his shoulders come in together forward. He had a slouchy gait. He had light whiskers, very short. The other heavy man had whiskers all round, that looked as if he had let them all start growing at the same time. It was evening when I met them. They had been helping themselves to feed, and then went from the barn to the house. We washed for supper, and defendant and Liddell blackened their boots. The sick man said he would wait till morning, and the slouchy one didn't think he would black his boots at all. The sick man retired early, and in the morning asked me to examine his mouth, which I did. In the evening previous the defendant

asked if we had any opium. I said no, but as my wife had been sick I had some morphine. I fixed two doses in one. The defendant observed, "I reckon it is not poison," and the heavy man took it. At the supper-table the slouchy man's name was called. The defendant said his name was McGinnis, and the sick man's name was given as Johnson.

The defendant said he was married and so was the sick man, and the others were single. The defendant seemed to know all about fair horses, but more about runners than trotters. In the morning Liddell helped me to load my wood. The slouchy man produced a bottle of stimulants and offered it to me, but I declined. They then sampled it lightly themselves. The arrangement with the defendant had been that if the sick man was not able to leave I should take him to Kidder in a buggy. The prisoner gave me 50 cents to buy quinine with, but I still owe him that sum, as he had left before I returned with the quinine. Since I first saw the defendant in the Gallatin Jail I went in there by myself, and after some preliminary talk with the defendant, I said: "I guess I had the pleasure of entertaining you and three other men one night." He looked at me slightly and then down and said: "I have no remembrance of it." Said I: "I guess I did. You and three other men, and one was quite sick." He looked up in a kind of study and shook his head and said: "I don't remember. I have no recollection of it." I have since seen Dick Liddell, and recognized him as the man I saw at my house.

Cross-examined: The defendant when at my house wore Burnside whiskers about three inches long, and a light mustache. Liddell at that time had a beard all over his face, about three or four weeks' growth. His mustache was not so long as now.

Re-direct: I am positive the defendant is the man who was in my house on that occasion.

Mrs. James Lindsay testified: I live at Chillicothe. I am a sister of the last witness. I saw the defendant at my brother's in June, 1881, about two weeks before the Winston robbery. Three others came with him. I recognize Liddell as one of them. He had a good appearance. Had a mustache and had not recently been shaved. Another of the three, who was sick with neuralgia at the time, had a beard all over his face. I first saw the defendant, who rode up to the gate, and said they had a sick man with them and asked if they could be entertained for the night. The fourth man was rather green looking. I remember the defendant having a conversation on some religious topic with my sister-in-law. He seemed to be a very religious man. I am sure the defendant is the man I saw that day.

Cross-examined: The man I saw at my house had Burnside whiskers and a mustache. In the morning after Frank James was out eating cherries under the trees and Liddell was with him. I would have known either the defendant or Liddell if I had met them on road before the surrender. I never forget a face. I remember seeing Mr. Johnson here at the June term. I do not remember seeing Mr. Phillips. [Mr. Phillips was not present in June.]

Dr. Wm. E. Black testified: I live at Gallatin, Mo.; I have seen the defendant since the surrender; had a few words in the jail with him; I talked with him in jail at Independence; he spoke of the merits of different actors; I believe he said he had seen Keene play Richard III. at Nashville, and also seen Lawrence Barrett, McCullough, and, I think, he spoke of Ward as a favorite actor with him, and that he delineated the Shakespearean characters he played better than any one he knew, being a young man; he also spoke of Miles.

D. Mathews testified: I live in Clay County, Mo., near Kearney, four and a half miles from Mrs. Samuels; I lost a horse on June 19—before the Winston robbery—a sorrel, with a blazed face and white hind feet; I got him some time in August after the robbery; he was at a farmer's by the name of Miller, in Ray County.

Cross-examined: This horse was 15 1-2 hands high. The blaze was 2 inches wide and extended from his eyes down over his nose. I recovered him through a reward I had offered for him.

Wm. R. Roberts testified: I live in Clay County. I remember the Winston robbery. I took up a bay mare about the end of July or first of August. She was taken up on my farm in Clay County and I turned her over to Sheriff Timberlake, who told me he was going to take her to Liberty. To the best of my recollection I took her up about a week after the Winston robbery.

Cross-examined: The mare had a small star in the forehead and a white left hind foot.

Mrs. Lindsay was recalled and testified that Mrs. Wolfenberger was a

sister of hers and could not attend at this trial on account of sickness. I said I saw Mr. Johnson here in June, but I was frightened at the time. I know I have seen him, but cannot say when. I noticed my mistake as I left the Court-room.

Court took a recess for dinner at this point, and the State announced its expectation of closing in a few moments after recess.

After recess Frank R. O'Neil, of the *Republican*, was called to the stand, and, having stated that he had counseled with no one touching the questions submitted last evening for his answer to-day, was informed by the Court that the law did not regard communications to the press as privileged. Mr. O'Neil, at the suggestion of Mr. Shanklin, of the State's counsel, submitted a paper to the Court containing a statement of his position. This paper was afterwards read by witness in open court. It is simply a disclaimer of any attempt to obstruct the process of justice, but states that after giving his pledge of confidence to the defendant before the surrender, he afterwards, to some extent, acted as adviser for the defendant, and should on that account be excused from answering. Witness further declined to state whether any of the parties present before the surrender with the defendant and himself were called as witnesses for the defense in this case. The Court reserved its decision on the question of compelling witness to answer.

James R. Timberlake testified: In 1881 I lived in Clay County, and was its Sheriff. I know Mr. Roberts. At that time he lived in the north-east portion of the county. I went out to his place and got a bay mare with a star on her forehead shortly after the Winston robbery. I kept her at Liberty for ten or fifteen days, and then the owner claimed her. The owner was named Graham. He afterward traded her to a livery man named Reed, who kept her at his stable, which is next to mine.

SIXTH DAY'S TRIAL.

Sam T. Brosius testified: I live at Gallatin; have lived here for the last two years. I am a lawyer by profession. I was on the train that was robbed at Winston. We were about on time at Winston. There was a commotion on the front platform of our car, and two men commenced firing, as I thought at the time, directly through the car. As the two men came in they called out, "hold up" or "show up," and I looked squarely into the face of the smaller of the two men to see that he noticed me; I held up my hands. As soon as the shooting commenced I saw that the conductor was hit. The two men continued to advance through the car till the larger of the two came up and nearly passed, when the conductor commenced sinking. He caught him, and the other man then came up on the other side. They hustled the conductor out on the platform, then came back, and passed me again, going out at the front end of the car. There was firing on the outside after they passed out. The larger man was full-faced, with beard all over his face, and would weigh 180 to 200 pounds. He was perhaps a full half-head taller than the conductor. I do not think the defendant is the man.

Cross-examined: Think I was erect a full half minute of the time during which the men were in the car. I noticed that the bullets all hit in the ceiling. The big man did not have on a duster. I could not swear to a stitch of clothing that either of the two men had on. The smaller man was dark complexioned and had whiskers three or four inches long. Plenty of people have heard me tell about what I saw. They would tell me I was too scared to notice anything, and I would assent to that to avoid further inquiry. I don't remember telling parties who came to me after the robbery for a description of the robbers that I could not describe them. Believe I told somebody that the muzzle of the robber's revolver looked pretty large and that I thought it was an eight-inch navy revolver. I did not tell Mr. T. B. Gates, the day after the robbery, that I could not recognize either of the men, and that I was under the seat. I don't believe I could recognize either of the robbers right now if he was brought into the court and placed before me. If any citizen ever said that I told him that I was under the seat, he lied.

Re-direct: I don't remember a conversation with Mr. Eli Dennis in which I stated that the shooting was done so quick and there was such confusion that I couldn't tell how the men looked or anything about it. I don't remember telling Mr. Robert L. Tomlin on the first of August, after the robbery, that one of the robbers looked as though he was fifteen feet high, and that I was so excited I couldn't tell how the men looked at all. If I had such a conversation I made the statements to

avoid inquiry, as so many people were asking me about it. I did not tell my law partner, Mr. Gillingham, in the presence of C. L. Ewing and A. Ballinger, that I was so badly excited I could not remember anything as to how these men looked. When I described them before it was as I did to-day—that they both had whiskers all over their faces.

Re-cross-examination: I am certain the defendant is not one of the men I saw on the train.

Re-direct: I went to Nashville with the following note from the defendant:

Mr. Brosius, go to see Mr. Clint. Cantwell by all means. He lives in sight of the Jeff Hyde property. Remember me kindly to all the family.

Respectfully,

(Signed)

B. J. WOODSON.

May 3, 1883.

I did not go to Nashville to get testimony to support an alibi. Did not see the accused until three weeks after my return. I am not interested in this trial. If the defendant is guilty I want him punished.

Fletcher W. Horn testified: Live in Nashville, Tenn. I am now connected with the detective force of that city. I know B. J. Woodson. I believe I got acquainted with him in 1877. I first formed his acquaintance in the summer of 1877, and last saw him in March, 1881. He resided most of the time in the White's Creek settlement. He was either farming or hauling logs for the Indiana Lumber Company. Then I saw him as often as once a week. Saw him last in Nashville, about the 26th of March, the time that Bill Ryan was arrested. When I knew him he wore sandy whiskers, short on the sides, and fuller on the chin, say four or five inches long. He was a hard-working man, who conducted himself as a gentleman. His associates were men of standing and position. I have seen Dick Liddell there in 1879 or 1880. I knew him as Smith. Met him in Bosse's saloon at Nashville. Never saw Liddell and the defendant together. The next time I was introduced to him by Squire Adams, on the corner of Dedrick and Cherry streets, as Dick Liddell. This was after he had been in Alabama. I knew Jesse James as J. B. Howard. Remember his buying a blooded horse in partnership with Taylor, the blacksmith. Afterward he bought the horse "Jim Malone." He owned the horse "Jim Scott." In 1877 I saw Howard and Woodson together once or twice in the pool-room. Believe I knew Jim Cummings, but am not positive. Did not know the Hites. Never saw B. J. Woodson in company with Liddell or Cummings. Never saw Liddell and defendant together. I saw very little of Liddell, and that only by accident. Was subpoenaed here for the State. Was present in June on transportation furnished me by Squire Earthman.

Cross-examined: Did not know Woodson and Howard were the James Brothers, or I would have tried to take them.

As far as I know, Dick Liddell deported himself well while in Nashville. The defendant has since alluded to me as a "Falstaff." Never saw any of the men I have spoken of in Nashville. After the arrest of Bill Ryan, I went with Mr. Sloan to Mrs. Hite's, and sat round while he asked questions. Mr. Sloan professed at that time to be attorney for Frank James. I wrote a letter to Thomas Furlong, in St. Louis, asking transportation for Mr. Sloan as a witness for the State; also for Mr. Moffatt, Wm. Earthman, Mrs. Hite and myself. I made this request for transportation for Mr. Sloan after I knew he was attorney for the accused. Mr. Sloan did not request me to get him transportation.

Re-direct: The letter was dated July 29, 1883. As far as I saw, Liddell conducted himself as a gentleman, though I didn't see him as frequently as I did the defendant.

Raymond B. Sloan testified: Attorney-at-law. I live in Nashville. I knew the defendant by the name of Woodson some time during the winter of 1876-77. That winter I discovered he was living in the old Felix Smith house, that had never had a light in it since the war. I have crossed the ferry with him, and seen him driving a four-horse team or sometimes mules. I had no intimate personal acquaintance with him. I last saw him in Nashville, March 26, 1881. Once that day I saw him at Jonas Taylor's blacksmith shop, and then again near the Louisville depot. He had light sandy whiskers all over his face, short on cheeks and longer on the chin, and a mustache. I don't think he showed evidence of shaving any part of his face. He was dressed in a light-colored coat, rawhide boots, pants within his boots, and a soft black Derby hat. I remember seeing the defendant after that. I once was a witness in the various continuances and hearings

of an assault and battery case. I never missed him after March 26, 1881.

Cross-examined: I remember telling you in the Maxwell Nashville, that I thought I was the last man in Nashville who had seen Frank James. That I saw him on horseback shaking hands with man, and saying, "Good-bye. I may never see you again." I did not know that from February 5 to March 26, 1881, Woodson or James was not doing anything, or that he was living in Nashville with Jesse James. I went up to Mrs. Hite's as attorney for Frank James, and reduced her statement to writing. I knew Horn was a witness for the State. Mrs. Hite didn't sign it; and Horn signed a statement that she acknowledged it to be true. I took Horn along, because I considered it would save me a trip to Gallatin if he came here. He could contradict Mrs. Hite if she made a contrary statement. I remember telling you at the Maxwell that perhaps you had better see a man named Sullivan, who pretended to know a great deal about this matter. I was Frank James' attorney at the time. I remember observing to you that the papers said I was Frank James' legal attorney before I knew it myself.

Re-direct: I was engaged as the defendant's local attorney August 8, and saw Mrs. Hite on August 13. Think I saw Mr. Wallace at the Maxwell a day or two after, say about August 17.

Mrs. Elizabeth Montgomery testified: I live a mile and a half east of Winston. I remember the Winston robbery. Some strange men ate at our house that night. The clock struck seven before they finished. The younger man was the taller and light-complexioned, with Burnside whiskers. The older man had dark whiskers and mustache, and dark clothes. One horse was a bay and the other a shade lighter. They had some bundles tied to their saddles.

Q. Is the defendant one of those men?

A. I think not, but I cannot be positive.

Cross-examined: I think both horses were bay but one was lighter than the other. The bigger man had whiskers all over his face, chin and all.

Miss Missouri Montgomery testified: I live a mile and a half east of Winston. Am a daughter of the last witness. I remember the night of the Winston robbery, and remember two parties coming to our house that evening about six o'clock on horseback. They remained there half an hour, I suppose, and got their suppers at the end of the house in the open air. I don't think I saw the defendant there. I wouldn't say positively. I don't think he resembles either of them in the least.

Cross-examined: The older of the two, had whiskers all over his face of a brown color. He was a rather heavy set man, and wore dark-brown clothes. I never saw Jesse James. The other man was tall and very slim; had light hair and no whiskers, except a little on each side. Neither of them had a large blaze-faced sorrel horse.

John L. Dean testified: Am a farmer, and live seven miles southwest of here. I know Jonas Potts. I remember a conversation with him at his shop November 20, 1882. He said he had been to Independence to see Frank James, and that he had never seen him before. I remember on another day that two men came up to Potts' shop in a carriage and wanted to get a neck-yoke fixed, and that Potts left the shop, and when he came back was somewhat excited, and said they were the men he had shod horses for before the Winston robbery. The larger of the two men was a low, heavy-set, dark-complexioned man, with heavy whiskers. The other was about my size, with fair complexion and no beard at all.

Cross-examined: I told Mr. Rush what I knew about this matter. I don't remember talking to Mr. Rush about this case at Winston in April or May last. I don't think Potts was in liquor when I talked to him.

Marion Duncan testified: I am a farmer and live about three and a half miles southeast of Winston. I know Jonas Potts. I remember conversing with him about Jesse James along in the fore-part of the winter of 1882-3. I don't remember any conversation with him before that. Remember Potts' saying to me that Jesse James was at his shop; that he had seen his picture at Winston, and he was the very man he had shod a horse for.

Cross-examined: Mr. Potts had been to town that evening and was pretty boozy in that conversation.

Gus A. Chapman testified: Know Mr. Potts. I remember him saying to me after his return from Gallatin Jail, where he had seen the defendant, that he didn't know if he had ever seen him before and could not tell.

Wm. E. Ray testified: I know Frank Wolfenberger. I saw him in

THE LIFE AND TRIAL OF FRANK JAMES.

James had been brought here. Did not hear him think he would be able to recognize him.

Witness offered in evidence the record of the trial and conviction of Dick Liddell for horse-stealing in Vernon County in 1874, which after objection was admitted to be read to the jury. Recess till 1:30 p. m.

Joseph A. Shelby, usually alluded to as "Gen. Joe Shelby," was the first witness called after recess. He testified as follows:

By Mr. Phillips: I have for thirty-four years resided in Lafayette County. I live nine miles from Lexington and nearer Page City. I remember Jesse James, Dick Liddell, Bill Ryan and Jim Cummings coming to my place in November, 1880. I was spreading hemp at the time, working some twelve or fifteen men, and when I returned home that evening I found four men with horses in my yard. Jesse James was there. Young Cummings I knew before, and this man Liddell passed as Mr. Black at that time. In the morning I had a conversation with Jesse James in the presence of Dick Liddell, in which I said that a couple of young men had been arrested for supposed complicity with the alleged bank robbery at Concordia, and that I didn't think they had anything to do with it; and I asked Jesse James if he knew anything about that affair to tell me, and he said, pointing to Dick Liddell, "There is the man that hit the Dutch Cashier over the head."

I remember in the month of November, 1881, meeting Liddell and Jesse James in my lane, and when I asked Jesse who was ahead of them he replied, Jim Cummings and Hite. I remember meeting Jesse James and Liddell again in the fall of 1881, and of asking Jesse where Frank was, and of his announcement that Frank's health was such that he had been South for years, and that when I asked the same question of Liddell he announced that he had not seen him for two years. I reckon I know Cummings better than any man except the Fords and his own people. I knew him in the army and since the war. He has been at my house a dozen times. He was with me in the Confederate army. I have not seen Frank James since 1872. I believe he sits right there now. With the permission of the Court, can I be tolerated to shake hands with an old soldier?

The Court. No, sir, not now.

Witness. I did not see him in jail. I have not seen him since 1872. I am correct about it, sir, when I say that the four parties to whom I have alluded by name did not include Frank James, who was not with them. With regard to the arrival of Mrs. Frank James at Page City in the spring of 1881, I have this to say. It seems a lady arrived at Page City. I cannot talk dates, like any other farmer, and Mrs. Scott, a widow woman, whose husband was Captain of the 3d Louisiana, and who died at Wilson's Creek, sent her son over for me, and stated there was a lady there who wanted to see me.

I went at once. Mrs. James said to me: "I am in distress. This man Liddell and others are committing depredations in the South, and they are holding my husband amenable for it, as he has been charged with being connected with them. I have come over on purpose to ask you to intercede with the Governor." I told her there was no necessity for that, and no hope of success. I told her further that Governor Woodson had talked to me at the Planters' House. For Hardin, I had no respect at all. She wanted me to interfere in her husband's behalf with the Governor. I told her it was folly to do so, and advised her to go home to her father. I think I remained half an hour talking to her. She remained at Mrs. Scott's all night. She didn't stop at my house. She could have stopped there if she had desired. As to the sewing-machine, I don't know what time the sewing-machine arrived there. She simply gave Mr. Birch, the agent at the depot, directions for shipping it, and I don't know where she directed it to be shipped at all. I was only assisting a woman in distress, and if she had been Dennison's wife, the most obnoxious man in the country——"

Here the Court stopped the witness short with a severe reprimand. The fact was, and it was rapidly becoming patent to everybody in the court-room, that Mr. Shelby was drunk. A sample of this testimony will be given verbatim a little further on.

Continuing, the witness said: Mrs. James left orders with the agent for the shipment of the sewing-machine. She was a lone woman, with a little child, and crying, and any man who would have faltered in giving suggestion or aid ought to be ashamed of himself. I had known Frank James since 1862. I know him now, the first time I have seen him for twelve years. I got acquainted with him in our army.

Cross-examined—By Mr. Wallace: This sewing-machine you didn't see at all?

"Nobody knows better than yourself that I didn't see it."

The Court. Answer the question in a straightforward manner.

Witness. I did not.

"You didn't have anything to do with it at all?"

"Nothing in the world."

"Sir, you are just as sure of that as you are of anything else?"

"Yes, and I am just as sure of anything else."

To the Court: "I would like to know if the Judge is going to permit a lawyer to insult an unarmed man, who is a witness in this case?"

The Court. Every witness comes in here unarmed, sir.

By Mr. Wallace. What are your initials?

"If you are desirous of knowing, go to this bank here and you will find out."

The Court. Answer his question.

Witness. Joe O. Shelby is my name.

"Then your initials would be J. O. S."

"Go to the banks in this town and you will find it Joe O. S."

"Look at the way-bill and see if that has 'J. O. S.' as the consignor of that sewing-machine? There may be a great many J. O. S.'s, who in that section have those initials beside you."

"You had better go and inquire."

The Court. I won't have any more nonsense of that kind. You will have to answer questions as they are put.

Witness (to Court). You are not protecting me at all.

Mr. Phillips. I simply suggest to the Court that under the circumstances this examination had perhaps better be deferred.

Witness. Not at all. Better let it go on. Now is the time for it to go on.

The Court (to witness). "General Shelby, you are a man that I respect and a man with a State-wide reputation as a gentleman. We did not expect such demeanor in this court-room. I must admonish you that I cannot permit this to go on any further."

Witness. "I want to know from the Court, if, after having said what he (Mr. Wallace) has, he is to charge me with receiving a bill of lading as J. O. S."

To this there was no reply.

Mr. Wallace. "I ask you if when Mrs. Frank James came there with a sewing-machine to be shipped to Mrs. B. J. Woodson, you did not yourself become the consignor and ship it thence to Independence for the purpose of keeping any one else from getting track of it?"

"No, sir, I did not."

"I ask you if this 'J. O. S.' doesn't indicate that?"

"No, sir, not at all. She arrived there as I related. I gave her a note to Mr. Russell, agent of the Missouri Pacific at Independence, to take it and send her up to Independence."

But it would be wearisome to follow the witness word for word. He testified further: I saw Dick Liddell. I was not brought into court to see if he was the man; neither you nor anybody else can bring me in anywhere. Nobody knows better than yourself that I was not brought in to look at Mr. Liddell. The man I saw was Mr. Black, alias Liddell, the thief.

The Court. I want no more epithets of that kind in the court-room.

Witness. Very good, Judge. He has forced it on me. If I am guilty of a misdemeanor, correct me or punish me for it.

The Court. I shall do it.

Mr. Wallace. You saw Liddell down at Capt. Ballinger's house, afterwards, didn't you?

"You don't propose to invade the household of Capt. Ballinger, a soldier of the Federal army?"

"It is very wrong for a rebel soldier to make remarks about what occurred in a Federal soldier's home."

Mr. Wallace. The war is over.

Witness. I don't like to allude to a visit to a gentleman's home. That is indelicate and improper.

"Did you see Liddell there?"

"I did, sir. I saw him like a viper, curled up in a rocking-chair."

"You saw him again at the hotel the other night, or was that a drummer that you took for him?"

"No, sir; by no means."

"Were you not about to kill the drummer, thinking he was Dick Liddell?"

"I have lived thirty-four years in this State and never killed anybody yet."

"Answer the question."

"I was not."

"This gentleman was seated at the table opposite to me, and he dropped his knife and fork and looked at me. I have his card in my pocket. He is a Michigan man, not one of your people at all, but a better man than yourself for instance. He was staring at me. I am not in the habit of staring at men on the street, especially ladies any way, and I must have made some casual remark about it."

"Did you get your pistol out?"

"No, sir!"

"Didn't the Marshal of Lexington see you draw your pistol?"

"No, sir; he is a liar, or anybody else, if he says so."

The Court. I want no more such remarks as that, Gen. Shelby, or I will fine you \$50.

In this way the testimony proceeded. Witness testified that Dick Liddell had partaken of his meals, and fed his corn to Liddell's horse. That was in 1880, and Jesse James was with him and Cummings and Ryan. Did not know that Jesse James was wanted by the officers. Knew it was asserted that he had been guilty of misdemeanors. Never told any officers where they could find him, but did once notify the Chicago and Alton and Missouri Pacific people that if they were under the apprehension that George Sheppard had killed him they were being misled, and that he was not dead. The last time Jesse was at my house was at Page City, in the fall of 1881, where I saw Frank James in 1872, which is the last time I saw him. He was bleeding at the lungs, and Dr. Orear was attending him. I don't know that he was an outlaw then, or that he is one to-day. I don't know that he was then fleeing from the officers.

He was at my house some sixty or eighty days that time, and everybody knew it. When the four men came to my house, as I have already stated, I told them I could only accommodate two of them for the night. Bill Ryan and Jesse James stayed all night with me. The others stopped with a man from Illinois named Graham, who had been in the Federal army. I am certain that Ryan was not pointed out to me as the man who hit the Dutch cashier over the head.

As witness started to leave the court room he asked permission to go over and shake hands with the defendant. This the Court refused, saying:

"You can call on him some other time." Whereupon Shelby nodded to the accused as he walked out, and said:

"God bless you, old fellow."

Frank Tutt testified: I reside at Kansas City. Prior to living there I lived at Lexington, Mo. I am a coal-oil inspector. I know Dick Liddell. I remember meeting him in front of Gardner's saloon at Kansas City just after the Ford boys had been pardoned, after the trial at St. Joe. Mr. James M. Crowder was present at the time. On that occasion Liddell, when asked where Frank James was, said he didn't know the whereabouts of Frank, and that he and Jesse didn't get along well together, and he hadn't seen him for years.

Cross-examined: I had been pursuing the James boys for a couple of months, but never caught any of them.

James S. Demastus testified for the defense, as follows: I reside in Richmond, Mo.; am a Justice of the Peace there. I remember the testimony of Mrs. Bolton at the Wood Hite inquest. I understood her to testify that she had not seen Frank James for about two years, and then at her father's. She was then living at the Harbison Place, and had been there about two years.

Cross-examined: She named Wood Hite, Dick Liddell, Clarence Hite and Jesse James as members of the gang. The answer as to how long since she had seen Frank James was given in an examination conducted by Mr. Farris, a juror, after the formal examination, and as much for curiosity as anything else.

Here Mr. Phillips said that Gen. Shelby was at the door, and desired to make a statement. The Court's permission being given, Gen. Shelby said:

"Before I say anything more I desire to say that if anything I said offended the dignity of the Court yesterday, I regret it exceedingly. As to other parties, I have no regrets to make."

Here ensued a running colloquy between witness and the Court, in which the Court severely censured witness for coming into court yesterday in a condition unfit to testify, and fined him for that offense \$10, which the witness paid and left the court.

James C. Mason testified: I reside in Ray County; remember Captain Ford stating to me that he didn't think Frank James was at Winston or Blue Cut; that he had settled down and left the boys; remem-

ber also a conversation with Mrs. Bolton, when she said that Frank James was trying to lead an honest life, and was a different man from Jesse; that Frank would go away and try to settle down, when Jesse would come to live with him, and the detectives would come and he would have to leave.

Here a wrangle came up over a question said to have been propounded to little Willie Bolton by the defense. A reference to the official report showed no such question had been asked, whereupon Willie Bolton was recalled in order that the defense might bring their impeachment battery to bear.

W. Bolton being recalled denied ever telling James C. Mason shortly after Jesse James' death that he had never seen Frank James, or that the others had been at his mother's house, and had said that Frank James had quit them. He didn't remember ever telling Mason anything at all about the outlaws.

James C. Mason, resuming the stand, testified that Willie Bolton had made at the time and place stated the statement which he just now denied having made.

Annian Duval testified: I live in Ray County and know Mr. J. T. Ford. I know all of the family. Know Willie Bolton. Had a conversation with John T. Ford, in which he said he never saw and didn't know Frank James, and did not know that he was anywhere in this country.

Cross-examined: Never heard the Fords say that any of the gang were there.

W. D. Rice testified: I reside three miles south of Richmond, Mo., and half a mile from J. T. Ford. I remember a conversation with Willie Bolton a day or two after the Wood Hite inquest, in which he said he had told a story before the Coroner's Jury, and that his mother had made him do it.

Cross-examined: Believe this was before Frank James had given himself up.

James Duval, recalled for the State, testified in answer to Mr. Wallace: The horse my brother lost was a sorrel. We got him from Mr. Sawyer, and I found him in February, 1883, in charge of Bob Hall, at Samuels' Station, in Nelson County, Ky. The horse was lost November 10, 1880.

John T. Samuels, called for the defense, testified: I am a farmer. I am a half-brother to defendant. I live three miles northeast of Kearney with Mrs. Samuels. Have lived there with her twenty-two years continuously. It was in 1876 that I last saw the defendant before the Winston robbery. He was married then. Last saw him in January last. Never saw him from 1876 up to that time. I was at home in the summer of 1881. Was not absent at any time during that summer. Saw Jesse James during that summer about the first of May at my mother's. He was in company with Dick Liddell. He told me he came from Kentucky. My mother and father were home when Dick and Jesse arrived. I heard my mother ask Jesse where was Frank, and he replied he had left him in Kentucky, and that he was in bad health and was talking of going South. She then asked Liddell the same question and received a similar answer. Jesse James was at our house two or three months that summer off and on. I last saw him there about the last of July or first of August that summer. During that time I saw at our house Dick Liddell, Clarence and Wood Hite, and Charley Ford, and no one else. The James boys and Wood Hite are cousins.

Continuing, the witness said: Wood Hite was rather tall, with high forehead, long nose, fair complexion, and beard on his face about one and a half inches long, also a mustache. Jesse was a large man, full-faced, with beard all over his face—a sandy beard, which I don't think was darker than Wood Hite's. Clarence was square built, delicate, and fair complexioned, with bad front teeth, so decayed that they would be quickly noticed. There was a striking family resemblance between Frank James and Wood Hite. I saw Jim Cummings at my mother's house that summer in the last of June, 1881. His sister lives two and a half miles from my mother's. I next saw him July 1 at the same place. He came there the first time with Jesse and Dick Liddell. He was by himself the last time. These parties were there several times that summer. I did not know of my own knowledge where the defendant was that summer. Cummings was rather tall and slim, with light hair—as tall as Frank James, and about 36 years old. Last saw him in July, 1881.

Cross-examined: I heard that all these men were outlaws. Saw in the papers that they had robbed trains and killed men. They came

and went armed. We fed Dick Liddell, though not related to him or Cummings. I knew that Cummings was charged with horse-stealing in Clay County. Never told of his presence there. Kept his presence here and that of the others a secret. In 1876 I saw him in company with Jesse and their two wives. Saw him in 1875 and 1874. When I first saw Jim Cummings in 1881 he was on the porch of Mrs. Samuels. The other time he came to my window at night. I tended a crop that summer. Charley Ford first came there in July, 1881.

He was there also immediately before the Blue Cut robbery, when they left in a wagon, to which Charley Ford's black pony and another horse was hitched. I was there then. The other horse was Dick Liddell's. I don't remember whether that wagon left in July or August. Think Charley Ford's first visit was in the last of July. He was never there until after the Winston robbery. First saw Jim Cummings there the last of June. First told Mr. Johnson from this stand that Cummings was there in 1881. I talked to Messrs. Johnson and Phillips, of the defense, day before yesterday. Mr. Phillips asked me about Jim Cummings. I had also told Mr. Garner, of the defense, about Cummings. I have heard Wood Hite called Father Grimes because of his stoop shoulders and old ways. He had whiskers all over his face—dark whiskers, darker than Jesse's. Jim Cummings had a complexion perhaps as red as mine, with little eyes. I don't know anything about his education. He could carry on a conversation as well as some other men. Never heard him quote any Shakspeare. There was left in the wagon Dick Liddell, Charley Ford, Clarence Hite, Wood Hite and Jesse James. There were not six men, and the sixth man was not Frank James, as far as I know. They were armed with revolvers. They had guns at the house, two Winchesters and a shotgun. Liddell had a shotgun and Jesse a Winchester. I don't know whether there was a suit of woman's clothes there. They got a woman's dress from my mother. I don't know what it was for.

Mrs. Zerelda Samuels, a gray-haired lady of 55, with a shortened right arm, and dressed in black, testified: I have lived for forty years in Clay County. I am the mother of Jesse and Frank James. Frank was 40 years old last January. I have lived three miles from Kearney. I have other children—Mrs. Palmer, Mrs. Nicholson, Mrs. Hall and John T. Samuels. Jesse was killed two years ago next April (this with tears). I was home during the summer of 1881. Jesse was at my house during 1881. He came there either in May or June—in May, I think. Before that he had not been home for some time. The first time he came Jim Cummings and Dick Liddell were with him—no, only Dick Liddell. I asked Jesse where "Buck," or Frank, was, and he said he had left him in Kentucky in bad health. I said, "Son, you know he is dead," and I turned to Liddell and he said they had left him in Kentucky. They left my house after the Winston robbery. I don't know the time. During that summer the parties that met at my house were Charley Ford, Dick Liddell, Clarence and Wood Hite and Jesse James. My son Frank was not there that summer. I have not seen Frank for seven years till I saw him at Independence. The last time before that I saw him was when Mr. Broome was Sheriff of Clay County, and they came to my house and shot at him. I saw Jim Cummings that summer. His relations live three or four miles from my house. One of his sisters married Bill Ford, uncle of the Ford boys. Liddell and the Hites were often at my house that summer previous to the Winston robbery. I did not know that summer where Frank James was. I thought he was dead. I am 55 years old. Was 50 years old when I lost my hand.

Cross-examined: I remember the wagon leaving. There were in it Jesse James, Charley Ford, Wood Hite, Clarence Hite and Dick Liddell. Jim Cummings was there in June. I didn't see him but that once. Johnny Samuels told me he was there one night at his window. The party that left in the wagon took food and clothing, and a dress, apron and bonnet that I furnished, so they could pass off one of the gentlemen for a lady, so you couldn't catch them.

Allen H. Palmer testified: I live in Wichita County, Tex. Am a cattle man. Have lived in Texas twenty years. First lived in Grayson County. The last years in Wichita County. I married Frank James' sister about thirteen years ago. I was not home all the time of the summer of 1881. I think I left home in May, between the 1st and 10th. I was down below Fort Worth working on a railroad, freighting. I had three children then. I returned about August 1st, or not far from the 1st. When I got home the 1st of August I found Frank James home with my family. I don't know what time he came there. I could not state how he was dressed at the time. I only

stayed at home but a few days, and I left him there. It was September before I was home any more. When I got back he had gone. I next saw him yesterday.

Cross-examined: Wichita Falls is on Wichita River, terminus of the Fort Worth and Denver. In 1881 there was no road nearer than Gainesville. In 1881 I lived in Clay County, eighteen miles northwest of Henrietta, on a ranch. My closest neighbor was a widow lady named Bogar, about half a mile off. She visited my family occasionally. She had two daughters and a son, a young man grown, who was attending to a bunch of cattle and visiting at my house.

Wichita Falls is ten miles from the ranch I had then. A family named Wicker lived two miles from me. The family consisted of three boys and one married daughter, and her husband, Beckler. My next neighbor was six or seven miles off, called Harness, W. T. and I. H. They are now at Henrietta. Frank James had a horse when I got to my place—a dark bay horse. I didn't ask him when he came or where from. I don't know any Clarence, or Wood Hite, or Dick Liddell. I didn't ask where he came from or where he was going. I hadn't seen Mrs. Samuels since 1879, when I was in Kansas City in jail, and she came to see me. The last time I saw Jesse James was the year of the railroad strike (1877). In 1881, in the summer, I worked on the roads in Texas, hauling from Fort Worth. Hauled on the Missouri Pacific, which was building there from Fort Worth to Cleburne, and from Cleburne to Alvarado. My name was not on any of the rolls, but we were paid in money every few days. Don't remember who I worked for, or with, or whom I loaded with. We were working between Cleburne and Alvarado, on the Missouri Pacific, I think it was called. Frank White, at my house, stayed mostly up-stairs. He ate with the family. I think he was unwell at the time. He said that his lungs were affected.

Re-direct: He was talking of surrendering if it could be fixed up in Missouri. When I was in jail at Kansas City I had been arrested in Texas for the Glendale robbery.

Re-cross: I think it was to Governor Crittenden that he talked of surrendering.

The Court at this point took a recess till 1:30 p. m.

The first witness called after recess was Mrs. Allen H. Palmer, who testified: I live at Wichita Falls, Tex.; I am the wife of the last witness; have been living in Texas about ten years—continuously; have lived in Sherman, Clay, and Wichita Counties; lived in Wichita County since last fall; the defendant is my brother; he is older than I am; in the year 1881 I saw the defendant at my house in Clay County; he came there in June, in the first part of the month; he spoke of coming from Tennessee, and of having lived there. My family consists of a husband and two children. He stayed there till the 1st of July. He was gone and came back again by the 1st of August, and was gone off and on till September. The first time he was gone three or four weeks. My husband came back the 1st of August. My brother was there at that time. I don't know where my brother went while he was gone. He remained in Texas a little over three months. I saw him off and on. He was there all of June. He went away the latter part of June or 1st of July, and was gone until the latter part of July, and from then off and on until some time in September he was at my house. I remember talking about him being anxious to have his friends negotiate his surrender to the Governor of Missouri. When he left Texas he started for California. I don't then know where his wife was. Since that I never heard of him until the surrender. During this three months he was in Texas his health was not very good. While Frank was there my husband was home once. I cannot say for how long—say four or five days. At that time my husband was working on the railroad near Fort Worth. He returned August 1st, and Frank was still there. I heard Frank speak of Jesse; that they got scared and left where they were living. When they left Tennessee, Frank came to my house.

Cross-examined: Frank got to my house the 1st of June. He told me he came from Tennessee. Of my own certain knowledge I don't know where he came from. He went away in June and stayed away all of July till the latter part. After he came back he stayed off and on till September. I don't know where he was in July. He finally left in September. I couldn't give the date, but it was along in the first of the month. I think the negotiations for the surrender were spoken of in the early portion of his visit. He spoke of friends, but didn't say friends in Missouri. He said he would like to have his friends negotiate his surrender, as he would like to be pardoned. I don't know anything about Jesse wanting to surrender. I never saw Dick Liddell till this

week. I know nothing of Clarence or Wood Hite. Frank came to my house on horseback on a bay horse. He hobbled it and turned it out on the range. He didn't tell me where he got the horse. He stayed at my house in all of the three rooms at different times. If any one came he would go up-stairs or out of the room. We lived in a remote part of the country where there are few visitors. We had a few visitors during the time. Mrs. Bogar was there visiting once. She didn't see Frank that I know of. When she was there Frank would sometimes be up-stairs or sometimes down cellar. Mr. Harness, a stock man, now living at Henrietta, was also a visitor while Frank was there. He was originally from Cooper County, Mo. We saw him coming and Frank went into another room. In speaking of the surrender, he said he wanted to surrender; wanted a trial and to become a common, peaceable citizen.

Question. Wanted a trial for what? For the Winston robbery?

Answer. No, sir.

Witness continued: I don't know of his mentioning the name of any one who had been negotiating with Governor Crittenden.

Re-direct: He told me that he left Tennessee because Bill Ryan had been captured; that he got frightened; that his health was bad, and he came to my place to see if it would improve his health, and he wanted to try and negotiate with the Governor for surrender.

Bud Harbison testified: I reside in Richmond, Ray County, Mo. In coming from Richmond to the Harbison Place, where Mrs. Bolton lived, the road passes right in front of my house without any fork or division, till the town is nearly reached. I was home and farming in 1881. Have frequently seen men passing my house on the road. Remember meeting a party of two or four at the creek on the road. Never saw defendant until I saw him in the Court-house yard. Could not say that I recognized him as one of the many parties passing my house in the summer of 1881. Saw Dick Liddell or Mr. Anderson at Mrs. Bolton's in February, 1882. I remember being at the house on Sunday early in December from 10 to 11 a. m. I talked with Bob and Wilbur Ford and Mrs. Bolton. I believe I saw nothing and heard nothing unusual that day.

Cross-examined: I couldn't identify any one of the four men whom I met at the creek on the road. I don't pretend to identify Dick Liddell as one of them. Did not recognize Wood Hite as one of them. I saw him after the exhumation of his body. He might have been stoop-shouldered. Had short whiskers and a little mustache, and would weigh 140 or 150 pounds. I don't know whether defendant is one of the men I saw at the creek or not. I was on the Wood Hite jury of inquest. If Mrs. Bolton said anything about Frank James I don't remember. I remember telling you that if she said anything about Frank James being there that he was there in May, though I could not be positive as to whether she said anything about it or not. I believe she said that he might have been there twice. She spoke of him as going by the name of Hall. She was asked about the James boys, and she said that she knew them, but when or where she had seen them, or what year I don't remember.

Samuel Venagle testified: In 1881 I was working as a carpenter for Mr. Weston till July. I know where Mrs. Hamilton's is, about a mile north of Gallatin. I remember the circumstance of the Winston robbery. I remember that Mrs. Hamilton's house was raised after I quit Mr. Weston, which was a few days before the Winston robbery.

This testimony was evidently introduced to contradict Liddell where he speaks of a house in the vicinity indicated as having two stories, he thought, though he couldn't swear to it.

At this point the defense announced that if they were given fifteen minutes' recess they could probably get along with one more witness. The Court ordered the recess asked for.

At 3 o'clock the defendant, Frank James, took the stand in his own behalf, and was duly sworn. The examination was as follows: By Mr. Phillips: "Mr. James, you are the defendant in this case?"

"Yes."

"Begin your statement of the history of this case, where the prosecution began, with the time of your departure from Missouri for Tennessee some years ago. Just state when that was?"

"That was in the winter of 1876, if I remember it correctly."

"State where you went and where you stayed."

"Well, sir, it is quite a route to follow it all round. I ranged across Southeast Missouri directly into Tennessee, crossing the Mississippi river, I think, perhaps about between the 1st and 5th of January, if I am not mistaken."

"State what time you arrived at Nashville."

"I didn't arrive at Nashville until July, 1876. I think I went directly then from Nashville out into what is known as the White's Creek neighborhood. The first place I went to there was the widow Harriet Ledbetter's, who lives over on White's Creek. In the meantime I rented a farm, which, however, I could not get possession of until January 1, 1878. I remained at Mrs. Ledbetter's during that fall. I put in a crop of wheat and moved there and lived in the place known as the Jesse Walton place. I lived on this place one year, that was up to 1878. Next year I rented a place from Felix Smith, on White's Creek also, but nearer to White's Creek than the place I have just mentioned."

"I remained there a year, and made a crop in the meantime—a general crop, as farmers raise—corn, oats and wheat. The next year I lived on what is known as the Jeff Hyde place, on Hyde's Ferry, about three and a half miles from Nashville. I remained there a year. During that year I didn't farm any. I was working for the Indiana Lumber Company. That I think was in 1879."

"What kind of work did you do for the Indiana Lumber Company?"

"I was working in the woods, logging, as they term it, and I worked off and on all that summer at that business, driving a four mule team, and after that time, I don't remember just what month, I think it was in 1880, I moved into Nashville. During that time, as it was very hard work logging, I got several strains and my health became impaired, and I found I would have to go at some other business. Thinking I could not stand working ten hours a day for three years as I had, I concluded to move into Nashville and go into some other business. During that time this gentleman who has been spoken of before, Mr. Ryan, was captured. Well, of course, I was apprehensive, and not knowing what sort of a man he was and only having a short acquaintance with him, I concluded that perhaps for the sake of his liberty he would be willing to sacrifice my life. So I concluded to leave, and did so."

"When and where was the first time you met your brother Jesse and the man Ryan?"

"My first meeting with my brother Jesse was entirely accidental; I was farming, as I stated, on the Walton place, and I had gone into the store of B. S. Rhea & Son, and while I was sampling oats and talking to one of the clerks, Jesse James walked out of the office, came up to me and says: 'Why, how do you do?' I spoke to him; didn't call any name of course. He was going by; he asked me where I was living, and I told him; he went out home with me, and told me he was living in Humphreys County, which is, I suppose, 100 miles west of Nashville, if I am not mistaken. I am not positive about the distance. He had been buying grain for this firm of B. S. Rhea & Son. That is where I first met him. That, I think, was in the spring of 1878—perhaps in February or March. We generally sow oats there in February—in the latter part of February or first of March."

"Where did you first meet Ryan in Tennessee?"

"The first time I ever met William Ryan, I think, perhaps, was in the fall or winter of 1879. I am not positive as to that date, but it occurs to me now, as well as I recollect it, that it was in 187—no, it must have been in 1879. I am pretty certain it was."

"Where did you meet?"

"I met him at my house. He had returned there with Jesse James, my brother, I suppose, though I cannot state that of my own knowledge. However, he came there one Sabbath with Jesse James, but his wife and children were boarding in Nashville at that time. He had gone to Jesse James'. Previous to this Dick Liddell had arrived at my house."

"What time did he come down there?"

"What I mentioned about being apprehensive was the second time. The first time I ever met Dick Liddell in Tennessee was, I think, in 1879. I am not positive what month. He and Jesse James came in together. No one was with them when they arrived at my house. Liddell was there off and on until that fall. He was then making trips to and fro, but where I have no idea. I never saw Ryan, Jesse James and Liddell together any great deal in Nashville. When they were out of my sight my impression is they were together, but of course when they were out of my sight I could not state what became of them. When I left Nashville, in consequence of Ryan's arrest, my first purpose was to protect my life so as to be able to support my family, and secondly to get shut of those parties who were around me. I could not prevent it. Of course I had no control of things, and that was the reason I left there and went to Logan County, Ky., to George B. Hite's, who had

married a sister of my father's for his first wife. I could not state when his first wife died. I do not remember the date we arrived there nor just how long we stayed. I think, however, we arrived in the latter part of March, or the 1st of April, as well as I recollect the circumstance now. As to the officers coming there, if my memory serves me right it was on a Sunday that it was reported there were at Adairsville, one and a half or two miles from the Hite's place, detectives looking for us, and they had followed us from Nashville.

"That Sunday morning three men were noticed coming toward the house. Our lane ran for quite a distance south of the house past the farm, and there was a little lane came up directly to the house. Some one saw them coming from a distance and said: 'Yonder come three men.' My brother, being a somewhat excitable man, said: 'No doubt those are the men that were in Adairsville.' The detectives, as they supposed. I said, 'I reckoned not; that I could not see what anybody could be following us for.' 'Oh, yes,' Dick says, 'you know Jessie and I borrowed a couple of horses, and I expect these men are from back down in Nashville.' I said, 'I guess they won't come here.' We went down-stairs, and I said, 'Don't shoot anybody; for heaven's sake, don't kill anybody!' They came down and went I don't know where. I went into the parlor and looked out of the window to see if they came up the lane directly in front of the house. I kept looking, but they didn't come, but went off. I thought perhaps it was some one going to church—neighbors, perhaps—so I went back up-stairs. However, the men went on by, and Wood Hite followed them on a mule, and reported that they had gone in a roundabout way to Adairsville, and they were the same men that we suspected of being detectives. I could not state positively whether I remained at Mrs. Hite's ten days or ten weeks, but it was in the neighborhood of that time.

"The Hite family was composed of George B. Hite, Mrs. Sarah Hite her daughter Maud, old Mr. Norris and his wife. That is all who were there then. Of course, he had other children who were not there at that time. Wood Hite's name was Woodson Hite. I would suppose him to be between 33 and 35 years of age. I think I was perhaps 2 years older than he. He was 5 feet 9 1-2 or 10 inches high. Cannot say whether his eyes were black or gray. His hair was light and his whiskers darker; rather dark sandy. He was a little stoop-shouldered, had a large, prominent nose and high forehead, and would weigh 150 pounds whereas I only weigh 140. There was very little difference in our height. There was a striking family resemblance between us. My attention was first called to it the first time Dick Liddell and Jesse James came to our house. The next morning after breakfast Jesse looked at me and says, 'Why, Dick,' he says, 'he looks like old Father Grimes.' I said: 'Who is old Father Grimes?' He says: 'He is your cousin, Wood Hite,' and Dick laughed and said: 'Yes; he is.' Clarence Hite was slender. You would call him a stripling, very loose in his movements, light complexioned, and, I believe, light-haired, with no whiskers at all. When I saw him in Kentucky he looked just like a green boy. I suppose he would be 5 feet 8 or 9 inches high. From the Hite's we went to Nelson County, Ky., the county which has Bardstown for its county seat. We first arrived at Richard Hoskin's, an old gentleman who lived in the 'knobs,' for it is a very broken country. There I separated from Jesse James and Dick Liddell, and cannot tell where they went. I know a man in Nelson County named Robert Hall.

"I was not at his place in company with Dick Liddell and Jesse James. There was no agreement entered into between Jesse James, Dick Liddell and myself, or myself with any other parties, to go to Missouri for the purpose of robbing the express at the Kansas City ferry; but, on the other hand, I tried to persuade them not to come to Missouri. Jesse and Dick had been talking of coming to Missouri ever since we left Nashville. Liddell had left his wife here and seemed very anxious to get back. I am not certain who was his reputed wife, but I believe it was Miss Mattie Collins. That is what I heard. I told Jesse and Dick not to come to Missouri, because it would endanger the life of our mother. I said: 'You know already what has been done there. You know there is no protection for my mother and family in the State of Missouri, let alone for you, and I would never go there.' My advice to Dick Liddell was to go to work somewhere and then he would have much more money at the end of the year than if he put in his time galloping around the country. But Jesse said they would go anyway. So I separated from them in Nelson County, Ky. As a matter of fact I was not at Hall's in connection with Liddell and Jesse James. I remained there perhaps till the 10th or 15th of May, though I don't just

remember the date. I then went to Louisville. Robert Hall took me in a buggy.

"From there I went to Texas. On the trip from Nashville to Hite's I rode a horse I got from Dick Liddell in 1879, as well as I can recollect. That is the horse he speaks of having sold to me, and its description corresponds with that of the horse referred to by the witness Duval. I gave that horse to Mr. Hall for his services in driving me in a buggy to Louisville. From Louisville I went to Texas by rail, going to Memphis over the L. and N. From there I went to Little Rock, where I think I changed cars and went to Texarkana on the Iron Mountain. Thence I went to Dallas by a road whose name I don't remember. It occurs to me like the International. From Dallas I went up into Northern Texas, Mrs. Palma is my sister. I got to her house about the 1st of June, 1881. I remained there five or six weeks. I don't remember exactly where I learned of the death of President Garfield. I think I heard of it while I was there, and I left my sister's between that time and the 10th of July. The nearest Post Office to my sister's place was Henrietta, and that was eighteen miles away. After leaving my sister's I went into the Indian Nation, and I think I was gone ten or fifteen days. I went on horseback. My sister's place is about thirty miles from the line of the Indian Nation, but the way I went I reckon it was about 120 miles. I know I got down in that country about the time I heard of the Winston robbery, so I talked round and went to Denison.

"I cannot state whether I read of the Wisconsin robbery in a paper or whether somebody told me. After that I went back to my sister's in Clay County, and remained there through August and a part of September. I left my sister's I am satisfied between the 10th and 15th of September, 1881. I know as I returned on that trip I heard of the Blue Cut robbery. When I left Tennessee I gave my wife directions to go to Gen. Joe Shelby's, in the State of Missouri, and see if there could be any arrangements made with the Governor for my surrender. If I could have a fair and impartial trial accorded me I felt perfectly satisfied I could be cleared beyond a doubt. I told her if anything could be done in this behalf to communicate with me in Northern Texas, otherwise to go to her brother, Samuel Ralston, in California. I think he resided in Sonora, Tuolumna County. She went there. I didn't do much in Texas, as I felt the need of rest, for the three and a half years of hard work in Tennessee had told on my health. I would sit and read or lounge about the house. I was not engaged in anything while I was there. When I left my sister's in September I returned to the neighborhood of Denison and the Chickasaw Nation, and remained there perhaps two or three weeks. Then I returned to Kentucky, going by way of the M. K. and T. to St. Louis, and the K. and O. to St. Louis and on to Samuel's Depot. I received no answers in 1881 to my petition for leave to surrender.

"Otherwise my wife would not have gone to California. On my return to Kentucky my wife met me in Nelson County. She arrived there some time in the latter part of October, 1881, with one child, now five years old. From Samuel's Depot we went across to Georgetown, in Scott County, Ky. There we took the Cincinnati Southern train to Chattanooga, and stopped at the Stanton House, where I registered as J. Ed. Warren and wife. From there we went over the E. T. V. and G. Railway to Bristol. Changed cars there for the Norfolk and Northwestern, which carried us to Lynchburg. I remained there a couple of weeks, detained by the misarrangements of a trunk which I had expressed from Louisville to Georgetown when I had gone across country in a buggy. At Lynchburg we stopped at the Arlington on Seventh and Clark streets, if I am not mistaken. My intention was to go into North Carolina somewhere, and remain there. I went from Lynchburg over the Virginia Midland to Danville, and then over the Richmond and Danville to Jonesboro, N. C., where I stopped at the McAdoo House, registering as before. Then there was a little town called Salem, thirty or forty miles from Jonesboro, at the foot of the mountains. That seemed to be a secluded place, and I thought I would go into business there, as I had experience in mill work, and there were any number of mills there, but the place seemed full of diphtheria. There was a great deal of sickness there. They had just been putting in water-pipes, which a great many people supposed to be the cause of the sickness. So I went back to Jonesboro, the place, by the way, where, I think, Gen. Joseph E. Johnston surrendered, and I got my family and went from there to Raleigh, N. C. As soon as I got into the town I saw it was dead. There wasn't a manufacturing establishment in it to amount to anything, although it had 15,000 or 16,000 inhabitants. I saw that

was no place to stop, and I went to Norfolk, stopping at the Purcell House, and registering as Warren. I didn't like that place, so my wife says, 'Suppose we take a trip up the James River?'

"I says, 'very well, all right.' We went up the James River with Capt. Gifford, on the Ariel, and, arriving at Richmond, stopped at the Ford House. There I found the town all yellow-flagged for the small-pox, which scared me, as I didn't want to lose my wife and child. So we went to Lynchburg, which was a healthy place, and rented a house there. I was quite feeble all winter and very sick. I stayed there until about the 10th of May. While at Lynchburg I noticed the assassination of Jesse James. I was taking the New York *Daily Herald* at the time. I had been out walking, and when I got back to the house I saw my wife was excited, and she came rushing to me with the paper and says, 'Jesse James is killed.' I says, 'My God, where and how and who killed him?' That was the 3d of April. After that I paid close attention to my papers. I remember reading in the New York *Herald* how Governor Crittenden, when asked what hope there was for Frank James, had replied, 'wherein as none of his friends have ever asked anything, I will not state anything about it.' That gave me hope. I said to my wife, 'Possibly if you return to Missouri and show a willingness on my part to let the past be buried, and that I am willing to surrender myself up, and be tried and meet every charge they can bring against me, I may have a fair and impartial trial.' She went. I left Lynchburg, May 10, 1882, returning as I went to Nelson County, Ky. I remained there until I effected my surrender, and came to Missouri, October 5, 1882. I shipped no arms from Samuels' Station to Missouri. As to what Jesse James and Dick Liddell did I am not able to speak. I was not in Missouri from 1876 to the time I passed through going from Texas to Kentucky."

The cross-examination of this witness may be summed up very briefly. He told how he went to Tennessee in 1877 in a wagon with Tyler Burns, separating from Jesse James somewhere in Southeast Missouri. "I had about \$200 when I left Nashville, and my wife had between \$600 and \$700 more, the proceeds of the sale of a wagon, four mills and a wheat drill, plows, harrows and general farm implements. I recollect different statements made to Mr. O'Neill of the *Republican*, in my interview with him, but then I was talking only to a reporter, whereas I am now testifying under oath. I had known Dick Liddell quite a number of years; had seen him at Hudspeth's before he went to Nashville. The sorrel or strawberry roan horse I got from Liddell I rode to Mrs. Hite's, and left at Bob Hall's."

Here, starting from Nelson County, Ky., in October, 1881, Mr. Wallace took the witness with great minuteness over his path of travel up to his surrender, and witness gave fluent and full replies. These travels were all subsequent to the Winston and Blue Cut robberies. Presently Mr. Wallace elicited the fact that after leaving Nashville in March, 1881, witness was armed with two pistols, but not a Winchester, though he had a Winchester that he carried on the Texas frontier. Almost before any one saw it Mr. Wallace had witness in a corner. He could not tell the name of any person in Texas outside of his sister, her husband and neighbors who had been previously named by his sister, except that he testified to going near Denison and to near Colbet's Station, on the M. K. and T. in the Nation, to meet a friend through whom he expected to hear touching negotiations for a surrender in July, 1881.

He refused to give the name of this friend, and, as he was already a jail prisoner, the Court saw no means of compelling an answer. In the Chickasaw Nation, defendant had stayed all night with an Indian, but could not give his name. He was of opinion, too, that he had met a cowboy named Hines. He could not describe town, or places where he had stopped during a ten weeks' stay. The contrast between witness' ability to describe his movements after the Winston robbery, and his inability to tell just where he had been for the four months preceding October 1, 1881, was marked in the extreme.

At 5:50 o'clock the cross-examination ended. The defense here rested their case, and Court adjourned for the day.

EIGHTH DAY'S TRIAL.

THE trial commenced by calling back to the stand Mr. D. Brosius, the lawyer, who was on the robbed train and who had declared the defendant to be not one of the men, the purpose of recalling him being to question him as to whether he had not at stated times and places told divers persons that the whole affair on the train occurred so

quickly that he could not describe any of the men and didn't even know what they looked like. His answers to all of these questions were in substance that he had always declared he couldn't give a description of the men as he could not now, and that being chaffed and joked with on all hands after the robbery he might have stated that the robbers were fifteen feet high and that they had revolvers four feet long.

Boyd Dudley, an attorney, testified that Brosius told him just after the robbery that he saw but one man, who was fifteen feet high, and that he thought there were others.

On cross-examination witness stated his office was with Circuit Attorney Hamilton, who was prosecuting the case.

Wm. M. Bostaph testified that on the morning after the robbery Brosius told him that he could not describe either of the robbers as to their complexion or dress, but believed they had slouched hats pulled down over their faces.

A. M. Irving testified that Mr. Brosius told him the story about a robber fifteen feet high.

Eli Dennis testified that Brosius told him the robbery was so quick and there was so much confusion that he could not describe the robbers or tell anything about them.

W. D. Gilliam testified to about the same effect. After Frank James was brought to Gallatin, Brosius told witness that he could not say whether the prisoner was one of the robbers or not.

George Tuggle, R. L. Tomlin and T. B. Yates all testified to Brosius' story about robbers fifteen feet high and revolvers four feet long, thus affording a powerful illustration of dangers of imagery in describing an occurrence.

Mrs. Sarah E. Hite was recalled. She testified; I knew Wood Hite since 1878, and was in the same house with him about four years. He was very untidy in his toilet, and not at all literary in his tastes. Frank was always neat, and he and Wood did not resemble each other.

On cross-examination, the witness described Wood Hite as she did on a previous occasion, saying that his forehead was not high, nor were his ears large. In other respects her description agreed with that of Frank James. Witness stated that in the spring of 1881 Jim Cummings and Frank James were not on friendly terms. Jesse came to the house one morning to kill Jim Cummings. He seemed much excited, and said he was going to kill Jim Cummings. Jim was at the Hite place alone in February, 1881, and was not there since. I don't know whether they became friendly or not after that.

Silas Norris testified that he knew Wood Hite four or five years, and that he did not to any general extent resemble Frank James, being somewhat smaller. He would take Frank to be six feet high. He never noticed any striking resemblance between the two men, though he never saw Frank James but once before coming here.

Major J. H. M'Gee testified: I was in the smoking-car on the train that was robbed at Winston. I sat close by the conductor when he was shot. There were three strange men in the car when the conductor was killed.

A long argument as to the admissibility of such evidence as this in rebuttal, it being clearly evidence pertaining to the case, resulted in two or three contrary decisions from the court, which at last determined to admit the evidence.

Witness resumed: Two of the three men were engaged in shooting, and one was engaged in cutting the bell-rope. I saw two of them come in at the front door of the car, but did not see where the third came from.

Cross-examined: Heard pistols and heard the exclamation, "down! down! down!" I saw one man standing near me at the middle of the car with pistols, and one near the conductor, both shooting. The conductor pulled the bell-rope, and then one of the men cut it. I saw all three of the men and sized them, but I couldn't tell whether the defendant was one of them or not. I saw no pistol in the hand of the man who cut the rope, nor did I see him doing anything else after shooting Westfall. The man who shot him walked with the other two to the front end, and going out on the platform shut the door and I saw no more of them.

Mr. W. H. Wallace, Prosecuting Attorney for Jackson County, commenced his closing argument on behalf of the State in the case against Frank James. He explained that he was present in the case at the invitation of the Prosecuting Attorney of Davies County, and also under a solemn obligation to those who elevated him to the position he now held in his own county, that having started out, if possible, to rid the State of the stain that rested upon her with reference to the

James gang, he would do all that he honorably and legitimately could in reference to them until the end. He told of his experience during the latest war, when, although too young to be upon either side, he had seen his home made a blackened ruin and himself and parents refugees without friends or food, and yet he said to-day he had no prejudice against the men who fought under either flag. He adverted briefly to the galaxy of legal talent that shone in the defense of this case, and said the State's counsel were to them but as pigmies to giants. He alluded to Mr. Johnson's simile of rescuing a man from a burning building and returning him safe to wife and children, and declared that Mr. Johnson had taken up this case just before entering upon a higher field, to show that he could snatch the accused, no matter where or what he had been, as a brand from the burning, and, Hector-like, drive off with the body of Justice, bound and fettered dangling at his chariot wheels.

But, said he, counsel for the defense were rather to be compared to a blind Sampson in the Temple of Justice, of which the jury were the twelve pillars, and he warned those pillars to beware how they allowed themselves to be reached, lest in the reaching and bowing of Sampson the whole fabric of law and order be brought to the earth. So far as counsel were concerned the State was over-matched. Why should a man so superbly innocent as the accused bring such an array of lawyers to appeal to every prejudice in every juror's heart for his rescue? Mr. Wallace then said that he asked no sympathy for the dead McMillan or his widow. In his labors as a public prosecutor he had learned, as nowhere else it could be learned, how true woman could be to the man who once reigns king in her heart. He was glad Mrs. Frank James was at her husband's side, and he asked no man on the jury to refrain from having his heart go out to her in the warmest and tenderest sympathy with which God had endowed him; but jurors were under oath. If a man and woman stand on the brink of a precipice and the man throws himself over, not all the tears or love of the woman left behind could bring him back. His descent was by virtue of an inexorable physical law.

There was an ancient law which read: "Whoso sheddeth man's blood by man shall his blood be shed." The Judge of the court in which they were sitting had in effect given them that law in the instructions in the case at bar. For the defendant he had neither love nor hate. His counsel had alluded to him as the most remarkable man of the age. He (the speaker) saw in him a man charged with an offense against the law, a man 40 years of age, of splendid intelligence, to whom God had given sufficient intellect to have earned him an honorable living in the world, but who had gone willfully and voluntarily into the commission of crime. He denied that there had been any improper influence used in the case. If Frank James had merely destroyed all the property of the Rock Island Road, or even all the property of all the transportation companies in the United States, he as a prosecutor would leave the railroad corporations to fight their own fight against the destroyer. "But go to the rear end of that smoking-car, where drops down upon the free soil of your own county the life-blood of a human being. There you see the stricken-down body, not of capital, but of labor, with the sweat of toil still upon its brow. Every drop of that pool of blood is, in the eyes of God, worth more than all the railway property in the United States," and the great living issue before the jury was whether the arm of the law or the pistols of the bandit were the stronger in the State of Missouri. This was a plain proposition. The jury would pardon him if he would speak plainly. He would try to talk, as the accused and his confederates shot, right to the mark.

The task now before the jury was, as he conceived it, to decide between the defense which Mr. Phillips had been ashamed to name and the overwhelming testimony which the law and the State had gathered against the accused. (Here Mr. Wallace read seriatim the instructions given by the Court on behalf of the State.) Incidentally he observed that the idea set forth by the defense that Frank James, even if he had gone to the robbery, had not gone there with intent to kill, was amply met and overcome by the fact that all five of the Winston robbers went to their work doubly armed. It was true, as Mr. Phillips had remarked, that in England the law did not permit conviction on the unsupported testimony of an accomplice, but that was not the law in this State. In Missouri the jury could, if they saw fit, find a man guilty of any crime upon the unsupported testimony of an accomplice, and in this case the testimony of the accomplice Liddell would be corroborated at every step of the 1,600 miles of road over which it ran. The plea that the defendant's fate was in the hands of one man on the jury

was sentimentally weak. That one man had no more to say in the case than had the Grand Jury who framed the indictment, or the Judge who had laid down the law; he was simply to pass on the fact as presented. It was the law that carried the sentence into execution. Coming down to the homicide, Mr. Wallace pictured the Rock Island train reaching Winston depot. He said there were many things to plead with the defendant not to commit this crime—the confiding, trusting faces at the car windows; the grandeur of the prairies of his own State; the atmosphere of freedom around about him; the stars above.

He touchingly referred to Westfall's wife looking for some kind hand to bring her husband home to her, and added, "She is waiting yet." He sketched the killing of the conductor and the firing of the shots by the man who stood on the front platform of the smoker. Suddenly, between the shots, young McMillan, who was on the rear platform, hears a voice—his father's voice—and looks up, and dies as he looks. That was chivalry against labor—bandit chivalry against that labor which had wet the brow of the Son of Almighty God when He moved among the men of this world. "Gentlemen of the jury," said Mr. Wallace, "as honest men, has the defense in the case before you made an honest and square defense from the start? There were five men in that robbery. They started out on that theory, and leaving out the defendant, substituted Jim Cummings as the fifth man. When Mr. O'Neill took the stand and described Jim Cummings with his peculiar drawl, they saw that Mr. Cummings would not fill the bill. Then they changed their defense. Their next theory was that but four men took part in the robbery and murder—Dick Liddell, Wood Hite, Clarence Hite and Jesse James—and that Wood Hite so nearly resembled the defendant that witnesses had mistaken one for the other. Would the jury allow themselves to be reasoned into a belief that they could not count five on their fingers? He believed there were five men on that train. The testimony of Penn and McGee was that three men came into the car.

"There were two men on the engine at that moment, and these two remained there during the entire transaction. Two and three made five, and there were five horses. The big sorrel with the blaze face and white hind-feet, stolen from Matthews, that Clarence Hite rode. The other sorrel with a blaze face and no white feet that Liddell rode. The big bay horse that Jesse James rode. The dark bay horse ridden by Wood Hite, and the little bay mare traced from Potts' shop by Timberlake to the stable at Liberty, that Frank James rode. There were five men in the immediate vicinity of Winston on the very day of the robbery. Dick Liddell got his dinner at Kinnig's; old man Soule saw Clarence Hite and Frank James in the woods, and two others saw Jesse James and Wood Hite on bay horses at supper at Mrs. Montgomery's. The identification in each case was complete." Mr. Wallace then referred to the fact that all the members of the gang, while at Nashville, Tenn., led apparently quiet and orderly lives. "On the 26th of March, 1881, they were all under one roof, and they fled together when Ryan's arrest became a matter of newspaper report. Did Frank James at that time endeavor to separate from the gang? He did no such thing. He followed Jesse as Ruth did Naomi, and might equally well have used the words: 'Entreat me not to leave thee, or to return from following after thee; for whither thou goest I will go, and where thou lodgest I will lodge. Thy people shall be my people; where thou dwellest will I dwell, and there will I be buried. The Lord do so for me, and more also, if aught but death part thee and me.' He was with the gang at Hite's. He went into Nelson County, Ky., with them. They came as a band to Missouri. They were together in the Fordes.

"Oh, but the Fordes were a bad lot, according to counsel for defense. Who made them the harborers of criminals that they were, but Frank James and his companions? The Fordes were not to be believed, counsel for the defense would have the jury to understand. Well, there was one member of that family, little Ida Bolton, whose testimony had neither been impeached nor shaken. On cross-examination she testified to having seen Frank James at her mother's house. Just one little girl from out of a supposedly bad lot of men and women, and yet she was comparable only to the little maid in Pilate's hall, who said to Peter: 'Thou, also, wert with them.'" Mr. Wallace claimed again that the identification of accused as one of the five Winston robbers was complete. Nine witnesses swore positive that Frank James was the man, and three others thought he was. This made twelve witnesses against him—the same in number as the witnesses upon whose testimony as to the resurrection of our Lord and Savior the Christian world based its belief in immortality and a life to come. And one of these witnesses even saw his Divine Master but once in a vision on the way to Damas-

cus. The evidence showed the presence of five men in the woods near Winston just before the robbery. The defense practically admitted that four of them were Dick Liddell, Jesse James, Clarence Hite and Wood Hite. Frank James had been in their company shortly before, and was it not according to human logic to believe that he was the fifth man at the train?

Would a man come from Tennessee to rob a train and stop when only half a mile from the plunder? The jury would, none of them, experience any difficulty in convicting a horse-thief on such evidence, even without Liddell's testimony. Counsel for the accused objected to Liddell being under guard in court and elsewhere. It doubtless made Mr. Phillips mad to see Liddell under the guard of a man who was four years with Shelby. Counsel had pictured Marshal Langhorne as standing over Liddell, saying: "Swear, you scoundrel, swear," when in truth, and in fact that same counsel, in his heart, was really saying, "Don't swear, don't swear." The history of all organized criminal depredations showed that no gang could be broken up without using the evidence of some one of the gang who was willing to assist the State. This Liddell had done. He denied that Liddell gave himself up because he killed Wood Hite, or that he was under contract to convict Frank James. When the witness Timberlake was on the stand Mr. Glover had started to ask him about Liddell's confession to him, but his associate counsel had checked the inquiry. They were afraid Liddell would be corroborated by the evidence of Timberlake as well as by that of Craig.

Here Mr. Wallace took up Liddell's evidence. He showed where it was corroborated by the Nashville witnesses as to the date of leaving that place and as to other events that there took place, and how it was corroborated by the express agents as to the shipment of the guns. In a few minutes he was bidding an eloquent farewell to Jesse James, although protesting against the manner of his taking off, and continuing, he observed that Liddell was corroborated as to his testimony on ground over which he had never been but once by a witness whom he had never seen since. The evidence of the Potters, the Brays and the Kindiggs was mentioned as in point. Liddell had said Frank James was there and these witnesses corroborated that statement, and beyond all physical identification was the identification of Frank James by his mental peculiarities, by his conversation on religious topics and by his spouting "Shakspeare." He told O'Neill how fond he was of Shakspeare and certain actors. His conduct in the presence of Dr. Black and Geo. Matchett was thoroughly in keeping with his own statement as regarded the alibi. Mr. Wallace had nothing to say of the mother and sister who swore to it. He did think Mr. Palmer had a very forgetful memory, and, taking the alibi as a whole, he had never seen one that came up to it, because, as Mr. Glover had said, its strength consisted in its very weakness. It was an alibi without a single fact upon which a contradictory statement could be based. In conclusion, Mr. Wallace paid his respects to the false and spurious chivalry which the defense had asked the jury to admire, and declared that the pardoning power did not lie in the jury-box.

Counsel for the defendant had urged the excusal of the prisoner on the ground that what he did he had done in a fair spirit of revenge. This the speaker denied. The motive in every case was gain, and for every drop of blood shed there jingled the music of the corresponding dollar. Neither, above all, should the defendant be excused because he was a soldier with Shelby. To do so was to mar the flag of the lost cause, to besmirch its folds with the robberies at Winston, Blue Cut and other places in this State, and the very thought of such a thing would cause men like Robert E. Lee, Stonewall Jackson and Sterling Price to turn in their graves. The Confederate dead from all their graves would cry "No! No! we have no part or parcel in this." Finally, the speaker called the jury's attention to the reputation of this State for lawlessness which had depreciated its property and forbade immigration within its borders. He hoped the verdict would be such as to remove the reproach of "Poor old Missouri!" He did not desire them to heed any popular clamor, but prayed that the God who ruled in heaven, who gave them their liberties, the God of Frank McMillan and his wife and child, might so guide and direct their hearts that they would render a just and righteous verdict in this case. [Great applause.] Mr. Wallace's speech was the great feature of the trial, and good judges declare they never heard it surpassed for vigor, evenness, power and eloquence. At its conclusion the jury retired and the Court took a recess till 4 o'clock.

ON THE NINTH DAY

THE Court gave the jury the following instructions:

1. That if defendant either himself killed McMillan or was present aiding or abetting at the time of the homicide, he is guilty of murder in the first degree.
2. Defining the terms willfully, premeditatedly and malice aforethought.
3. That if defendant combined with others to assault the express-messenger (Murray), and McMillan was killed in that connection, he is guilty of murder in the first degree.
4. That if McMillan was killed by defendant shooting recklessly into the car, and without specific intent to kill McMillan or any one else, or if defendant was present during such reckless shooting, aiding or abetting, he is guilty of murder in the second degree.
5. As to the defendant's testimony on his own behalf.
6. That the jury are sole judges of the evidence.
7. As to defendant's admissions against interest, which the law presumes to be true, while his admissions in interest are not necessarily true even if brought out by the State.
8. As to the testimony of accomplices being received with caution.
9. Reasonable doubt means real and substantial doubt, not a mere possibility of innocence.
10. As to punishment.

For the defense, instructions were given:

1. That defendant must be specifically connected with the killing of McMillan to justify a verdict of guilty on the first count for murder in the first degree.
2. That defendant must be specifically connected with the killing of McMillan in the robbery to justify a verdict of guilty of murder on the second count for murder committed in the perpetration of a felony.
3. That to convict on the second count it is not sufficient to show that defendant was present at the homicide if some other party killed McMillan not in pursuance of the common design, but of his own motion, without the concurrence or consent of the defendant.
4. As to the weight of evidence.
5. As to the testimony of accomplices.
6. As to the presumption of innocence.
7. Circumstantial evidence to warrant conviction must be absolutely inconsistent with the theory of innocence.

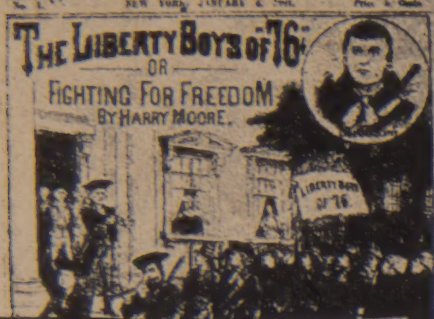
Three days were consumed in the argument of the counsel for State and defense when the jury returned the following verdict:

"State of Missouri vs. Frank James—murder: We, the jury in the above entitled cause, find the defendant not guilty as charged in the indictment. (Signed.)

WM. T. RICHARDSON, Foreman."

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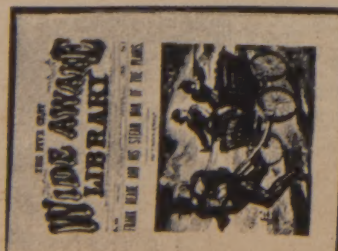
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